

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") June 8, 2017 reconsideration decision wherein the ministry denied the appellant's request for income assistance as per section 8 of the Employment and Assistance Act (EAA) and section 18 of the Employment Assistance Regulation (EAR) because:

- the appellant did not provide any information or dispute that he had not met the criteria under Section 8 (1 and 2) of the EAA of being employed for at least 840 hours or earning \$7,000.00 in each of any 2 consecutive years: and
- the appellant did not meet any of the exemption categories under Section 18 of the EAR

PART D – Relevant Legislation

Employment and Assistance Act (EAA)

- Section 8

Employment and Assistance Regulation (EAR)

- Section 18

PART E – Summary of Facts

The appellant applied for income assistance as a single person.

The evidence before the ministry at the time of reconsideration included the following:

- A completed Application for Assistance using the MySS Application dated May 1, 2017
- Copies of identification for the appellant and his two children
- Copies of the appellant's banking records for the period of March 1 – April 30, 2017
- A completed Shelter Information record dated May 9, 2017
- A completed direct deposit request form
- A Request for Reconsideration decision dated May 26, 2017

In the Notice of Appeal dated June 13, 2017 the appellant states that his reasons for appeal are:

- he was on disability before he moved back to his reserve
- his two children had been living with him for almost a year
- he has barely ever worked in his life
- he has been on income assistance his whole life
- he has no income

The appellant was absent for the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceed with the hearing in the appellant's absence.

The ministry relied on the reconsideration decision as well as providing the following information during the hearing:

- the appellant's original file was opened in 2003, presumably under the Child in Home of Relative criteria. It appears that he has been on income assistance most of his life
- in 2015 he applied for income assistance as a single person. At that time the appellant had a recent knee injury and was therefore exempted from qualification under Section 18 of the EAR, making him eligible for assistance. This file was closed in January 2016
- in March 2016 the appellant applied for and was granted income assistance for himself and his two children. This file was closed in October 2016
- he is now estranged from the mother of his children and his children live with their mother
- he has been removed from his reserve and is living with his parents
- has done odd jobs in the past but not worked 840 hours a year, nor has he made \$7,000.00 a year
- that income received from a First Nations Band is not considered earned income
- that the word "not" in the following sentence contained in the Reconsideration Decision dated June 8, 2017 should be omitted as a typographical error: "After reviewing your file, your Request for Reconsideration and the applicable legislation, the minister has determined that you should not be denied income assistance for failing to meet the requirement of 2 years of financial independence."

Admissibility of Additional Oral Information:

The panel admits these statements and the information in the appellant's NOA as testimony in support of the information before the ministry at reconsideration in accordance with section 22(4) of the Employment and Assistance Act.

PART F – Reasons for Panel Decision

The issue under appeal is whether or not the ministry's reconsideration decision of June 8, 2017 denying the appellant's request for income assistance was a reasonable application of the

Employment and Assistance Act, section 8 and the Employment and Assistance Regulation section 18.

Applicable Legislation:

Employment and Assistance Act, section 8

Requirement for 2 years employment

8 (1) For a family unit to be eligible for income assistance, at least one applicant in the family unit must have

- (a) been employed for remuneration for at least the prescribed number of hours in each of two consecutive years,
 - (b) earned remuneration for employment in at least the prescribed amount in each of two consecutive years, or
 - (c) been employed for remuneration for a portion of two consecutive years and for the balance of those years either
 - (i) served a waiting period in respect of, or received benefits under, a claim under the Employment Insurance Act (Canada), or
 - (ii) received income under a public or private income replacement program or plan.
- (2) The Lieutenant Governor in Council may prescribe categories of applicants to whose family units this section does not apply.

Employment and Assistance Regulation section 18.

Requirement for 2 years employment

- 18 (1) For the purposes of section 8 (1) (a) of the Act, an applicant must have been employed for remuneration for at least 840 hours in each of the 2 consecutive years.
- (2) For the purposes of section 8 (1) (b) of the Act, an applicant must have earned remuneration for employment of at least \$7 000 in each of the 2 consecutive years.
- (3) Section 8 of the Act does not apply to the family units of the following categories of applicants:
- (a) applicants who have not reached the age of 19;
 - (b) applicants who are pregnant;
 - (c) applicants who have a medical condition that, in the opinion of the minister,
 - (i) will prevent the applicant from working for at least the next 30 days, or
 - (ii) has prevented the applicant from working for a total of at least six months of the 2 years immediately preceding the date of the applicant's submission of the application for income assistance (part 2) form;
 - (d) applicants with dependent children;
 - (e) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
 - (f) applicants who are providing care to a child in care;
 - (g) applicants who were supported by an employed spouse for at least 2 years;
 - (h) applicants who were supported by an employed spouse for a portion of a two year period and met a requirement of section 8 (1) of the Act for the balance of the two year period;
 - (i) applicants who were incarcerated in a lawful place of confinement for at least 6 months of the 2 year period immediately preceding the date of application for income assistance;
 - (j) applicants who were in the care of a director under the Child, Family and Community Service Act or who had an agreement with a director under section 12.2 of the Child, Family and Community

Services Act until the applicant's 19th birthday;

(k) applicants who

(i) have separated from an abusive spouse, or

(ii) changed place of residence to flee an abusive relative, other than a spouse, within the past 6 months if, in the minister's opinion, the applicant's ability to work is consequently impaired;

(l) applicants who have been awarded a 2 year diploma or certificate, a bachelors degree or a post-graduate degree from a post-secondary institution;

(m) applicants who have persistent multiple barriers to employment;

(n) applicants who reside with and care for a spouse who has a physical or mental condition that, in the minister's opinion, precludes the applicant from leaving home for the purposes of employment;

(o) applicants who are providing care for a child under an agreement referred to in section 8 of the Child, Family and Community Service Act;

(p) applicants who are providing care for a child under an agreement referred to in section 93 (1) (g) (ii) of the Child, Family and Community Service Act.

(4) Section 8 of the Act does not apply to the family units of applicants if, in the minister's opinion,

(a) the applicant, due to circumstances beyond the applicant's control, has been prevented from searching for, accepting or continuing employment, and

(b) the family unit will otherwise experience undue hardship.

[am. B.C. Regs. 331/2003, s. 1; 304/2005, s. 4; 279/2009; 48/2010, Sch. 1, s. 1 (b); 145/2015, s. 5.]

Panel Findings:

Appellant's position:

The panel notes that the appellant:

- is a single father with two children under the age of three who lived with him for almost a year
- is separated from the mother of his children and his children live with their mother
- has been removed from his reserve
- is living with his parents
- has done odd jobs in the past but not worked 840 hours a year
- has no income now
- has not made \$7,000.00 a year, rather that he has been on income assistance most of his life

Ministry's position:

The Ministry's position is that the appellant:

- has not provided any information that suggests he has met the remuneration criteria in each of two consecutive years per Section 8(1) of the EAA, stating that while he has had odd jobs in the past he has not made \$7,000.00/year or worked 840 hours/year
- has indicated that he does not meet any of the exemption criteria under Section 18(3) of the EAR when questioned during his intake interview on December 21, 2016
- has not provided evidence that he will experience undue hardship without income assistance as per Section 18(4) of the EAR

The panel finds that the appellant did not provide any mitigating information in his Notice of Appeal dated June 13, 2017, nor did he dispute that he had not met the criteria under Section 8 (1) and (2) of the EAA of being employed for at least 840 hours or earning \$7,000.00 in each of any 2 consecutive years. The appellant stated during his intake interview dated December 21, 2016 that he did not qualify under any of the exemption categories under Section 18 (3) and/or (4) of the EAR, including being under 19 years of age; pregnant; having a medical condition that prevents him from working for at least the next 30 days, or that prevented him from working for a total of at least 6 months of the last two years; having dependent children; having a child in the home of a relative, having a foster child; being supported by an employed spouse for at least 2 years or for a portion of two years and worked for the remaining portion of two years; being incarcerated in a lawful place of confinement for at least 6 months of the last two years; in the care of a director under the Child, Family and Community Service Act until your 19th birthday; fleeing an abusive spouse or relative in the past 6 months; having a 2 year diploma or certificate or degree from a post-secondary institution; having persistent multiple barriers to employment; residing with and caring for a spouse who has a mental health condition that precludes you from leaving home for the purposes of employment; providing care for a child under an agreement referred to in Section 8 or Section 93(1)(g)(ii) of the Child, Family and Community Service Act. Although the appellant argues that he couldn't work because he had his children for most of the previous year, these circumstances are not one of the exempted circumstances set out in s 18(3). Additionally, the panel finds that based on the evidence provided, including that the appellant currently resides with his parents, the ministry reasonably determined that the information does not establish that the appellant will experience undue hardship without income assistance as per section 18(4) of the EAR. The panel finds that the ministry was reasonable in their determination that the appellant did not meet any of the qualifications of the above noted Sections of the EAR.

Conclusion

In conclusion, the panel finds that the ministry was reasonable in their application of the legislation given the evidence presented at the time of reconsideration. Therefore the panel upholds the ministry's decision. The appellant is not successful in this appeal.