

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated November 3, 2017, that denied the appellant income assistance for failing to demonstrate reasonable efforts to participate in a specific employment-related program pursuant to Section 9(4) thereby failing to comply with the conditions of his employment plan as required under Section 9(1) of the Employment and Assistance Act (EAA).

PART D – RELEVANT LEGISLATION

Employment and Assistance Act, (EAA) Section 9.

The appellant was not in attendance at the hearing. After confirming he was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

Information before the ministry at reconsideration :

- Employment Plan dated and signed by the appellant on June 19, 2017.
- Work Search Activities Record for May 19.
- Work Search Activities Record for May 20 – 24 inclusive and June 2.
- Work Search Activities Record for June 19.
- Job Search List dated July 18, 2017 by the appellant.
- Work Search Activities Record for August 23.
- Work Search Activities Record for September 12.
- Monthly Report stamped September 20, 2017 by the ministry.
- Work Search Activities Record for October 23.
- Request for Reconsideration dated October 23, 2017, in which the appellant wrote that he had filled out his job searches to his fullest capability and is trying to improve himself. The appellant indicated that he was sent a reconsideration package instead of a cheque because his job search record wasn't meeting the criteria for a completely filled out job search.

Employment Plan (EP)

The purpose of the EP is to outline activities and expectations for the appellant to find employment or become more employable. The EP has specific timelines for activities and is reviewed regularly. The EP tracks the appellant's progress to employment. Any changes to the plan require an amendment agreed to by the ministry. If the appellant is unable to follow through, he must advise the ministry. If the appellant fails to comply with the EP, he will be ineligible for assistance.

Conditions of the EP

The appellant will participate fully and to the best of his ability in the activities required by the ministry or contractor as set out:

Terms of the EP: Start Date - May 16, 2017 End Date - May 18, 2018.

The appellant must:

- create and keep an up-to-date resume;
- apply for work with all possible employers; seek out and use all available resources to find work; (This means looking for posted job openings, seeking out job openings that are not posted, and applying for jobs that may be open in the future. Resources for the appellant's work search may include: the local WorkBC Employment Services Center, internet, library, newspapers, community agencies, family, friends, cold-calling potential employers, etc.);
- record all work searches actions on the ministry Work Search Activities Record form (SD0077);
- submit work search forms for each month by the 5th of the next month; and
- spend 25 hours each week on work search activities as described on the work search form.

Ministry records

The appellant was in receipt of income assistance as a sole recipient.

The appellant's previous EP referred him to the Employment Program of BC and on May 16, 2017, the appellant was reported as having completed all the services they had available and was recommended.

A new EP was developed for independent job search.

On June 19, 2017, the appellant signed the most recent EP confirming that he had read, understood and agreed to the conditions and consequences of not complying.

The appellant indicated that he had been working part time and was paid in cash and was then directed to record his earnings and declare them each month.

On June 21 and June 29, 2017, the appellant submitted Job Search Forms. As there was a discrepancy concerning the amount of time stated as worked and funds received from the employer, contact was made with the employer who confirmed that the appellant did not work full days and was paid \$20 and \$40 here and there. The employer stated that there was lots of work but the appellant did not want to work.

On July 29, 2017, the ministry worker reminded the appellant that he was required to spend 25 hours per week with job search activities and was required to submit the Job Search forms.

On August 23, 2017, the appellant stated that he had submitted his Job Search form but had not put his name or social insurance number (SIN) on it. The appellant was then advised that his Work Search form from July 18 was not adequate as the appellant did not note dates of contact. The appellant was advised that his September cheque would not be released until a review of his Job Search forms.

On August 28, 2017, the appellant advised the ministry that he had a few interviews lined up. The appellant was reminded that all documents submitted to the ministry must include his name and SIN and was asked to submit a duplicate Job Search form. The September cheque was released to the appellant.

On September 20, the appellant submitted a Job Search form and on September 25, 2017 the appellant was advised that his Job Search form was not adequate as it did not reflect 25 hours of work search activities. The appellant had only noted 5 contacts on September 12, 2017. The appellant was then advised that he was not eligible for further assistance.

A Notice of Appeal dated November 22, 2017 indicated that the appellant did look for work and that this judgement should be reconsidered because he honestly held up his side. The appellant indicates that since his last job related injury, he has been capable enough to seek full employment.

Hearing

The ministry stood by the reconsideration decision.

The issue on appeal is whether the ministry's reconsideration decision which found the appellant ineligible for income assistance for failing to demonstrate reasonable efforts to participate in a specific employment - related program pursuant to Section 9(4) thereby failing to comply with the conditions of his employment plan as required under Section 9(1) of the Employment Act was reasonably supported by the evidence or was a reasonable application of Section 9 of the EAA.

The relevant legislation is as follows:

Employment plan

- 9 (1) For a family unit to be eligible for income assistance or hardship assistance, each applicant or recipient in the family unit, when required to do so by the minister, must
- (a) enter into an employment plan, and
 - (b) comply with the conditions in the employment plan.
- (2) A dependent youth, when required to do so by the minister, must
- (a) enter into an employment plan, and
 - (b) comply with the conditions in the employment plan.
- (3) The minister may specify the conditions in an employment plan including, without limitation, a condition requiring the applicant, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or dependent youth to
- (a) find employment, or
 - (b) become more employable.
- (4) If an employment plan includes a condition requiring an applicant, a recipient or a dependent youth to participate in a specific employment-related program, that condition is not met if the person
- (a) fails to demonstrate reasonable efforts to participate in the program, or
 - (b) ceases, except for medical reasons, to participate in the program.

Appellant's Position

The appellant's position is that he should be eligible for employment assistance because he filled out his job searches to his fullest capacity and is trying to improve himself. He argues that it is unfair because he was still receiving feedback from jobs places but the ministry did not believe that he was telling the truth and actually going around dropping off his resumes. Further he argues that he honestly held up his side of the agreement.

Ministry's Position

The ministry's position is that the appellant signed an Employment Plan confirming that he read, understood and agreed to the conditions and consequences of not complying. The Employment Plan stipulated that the appellant was required to spend a minimum of 25 hours per week in job search activities and submit Job Search forms each month. The reports that the appellant submitted do not reflect 25 hours of job search activities each week. In the opinion of the minister, the appellant has not demonstrated a reasonable effort to comply with the conditions of his Employment Plan and is not eligible for income assistance.

Panel Decision

Section 9(4) of the EAA holds that if an EP includes a condition requiring a recipient to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program. The panel finds evidence where the appellant has consistently failed to spend at least 25 hours each week on work search

activities as described on his work search forms and as expected in the Supervised Independent Work Search program. While the appellant submitted work search activities forms, often dates and other basic information such as name and SIN were left out and when given the opportunity to re-submit, there is no information to indicate that the appellant completed a revised work search activities form or that one was submitted to the ministry. At least 3 discussions were held between the appellant and ministry staff regarding the EP requirement to submit his Job Search reports in a span of 3 months. The panel finds that the ministry reasonably concluded that these actions indicate that the appellant has failed to demonstrate reasonable efforts to participate in the Employment Program of BC as per Section 9(4) which was a condition of his EP.

The panel finds that on June 19, 2017, the appellant signed the most recent EP confirming that he had read, understood and agreed to the conditions and consequences of not complying as a result of the appellant's lack of participation in the program.

As making reasonable efforts to participate in the Employment Program of BC was a condition of his EP and as there is no evidence of mitigating circumstances or medical reasons for non-compliance, the panel finds that the ministry reasonably determined that the appellant failed to comply with the conditions of his EP and is therefore ineligible for income assistance as set out in Section 9(1).

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant is not eligible for income assistance for failure to comply with his EP pursuant to Section 9 of the EAA was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful on appeal.