

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated January 19, 2018 in which the ministry denied income assistance to the appellant. The ministry determined that the appellant failed to comply with conditions of his employment plan as he did not demonstrate efforts to participate in his employment related program, pursuant to section 9(1) of the Employment and Assistance Act (EAA). The ministry determined the appellant he did not have a medical reason to cease his participation in the employment related program.

## PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

## PART E – Summary of Facts

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

- An employment plan (EP) signed by the appellant dated August 11, 2017. The agreement required the appellant to meet with the Employment Program of BC (EPBC) contractor by August 25, 2017, take part in all program activities assigned by the EPBC contractor, complete all tasks including all actions set out in his EPBC Action plan, and to notify the EPBC if he is unable to take part in services, complete steps he agreed to, or if he finds work. The EP also instructed him to advise the ministry if there is any reason he cannot follow through with the agreement.
- A letter addressed to the appellant from the ministry dated August 28, 2017. The letter reads that his income assistance cheque for September is being held at the local ministry office and will be released once he provides the information requested in the letter. The letter instructs him to attend an appointment with EPBC and submit his Action Plan to the ministry caseworker. The letter reminds him of his obligations under the EP and that failure to comply with the conditions of the EP will result in being ineligible for further income assistance.
- A letter addressed to the appellant from the ministry dated December 12, 2017. The letter reads that he is not in compliance with the conditions of his employment plan and his eligibility for further income assistance is in question. The letter instructs him to contact his ministry caseworker to resolve this issue.
- An undated letter from the appellant. In the letter the appellant writes the house he is living at has rats and the landlord won't correct the problem, he has relapsed into addiction due to the stress of being found ineligible for income assistance, and that he recently had a stroke.

At the hearing the appellant submitted new evidence to the panel. The new evidence was a letter written on his behalf by an advocate that clarified much of what was written in his undated letter listed above. The original letter was handwritten and was difficult to read so the appellant had an advocate reword and type the submission. In addition to what was included in the undated letter listed above, the letter states the appellant was unable to attend his EPBC appointments because he was under great stress due to the living conditions of his rental home, the landlord did not pass along to him phone messages from the ministry, the appellant has no family doctor, and due to his untreated medical condition he is in no condition to be seeking work at his time. In addition to the letter the appellant included five photos of the rental house he was living in. The photos showed unfinished floors, graffiti on walls, and the cooking appliances made unusable.

The letter and photos were admitted as evidence as per the Employment and Assistance Act section 22 (4). The panel found that the evidence contained in them is in support of evidence that was before the ministry at the time of the reconsideration. The letter was accepted because it provides the same information as the letter submitted with the request for reconsideration but is fully legible whereas the handwritten letter was not. The photos provide further details of the reasons why the appellant was seeking new accommodations. At the hearing the ministry had no objections to the letter being accepted as evidence.

At the hearing the appellant told the panel:

- He had been living in the rental house for 5 years but it had become infested with rats over the past 2.5 years.
- The landlord did not always give him his mail or pass along phone messages.
- He suffered a stroke on December 20, 2017 after taking drugs.
- He is not receiving treatment for his medical condition because he is waitlisted for a family doctor.
- Prior to his December 20<sup>th</sup> stroke, he was in good health.

- He was unable to attend his EPBC appointments because he was out looking for a new apartment to rent.

At the hearing the ministry told the panel that the appellant signed the Employment Plan (EP) on August 24, 2017 and was instructed to meet with EPBC by August 25<sup>th</sup> but he did not. After his cheque was held at the ministry office, the appellant visited the ministry September 20<sup>th</sup> and was reminded about his obligations under the EP and the consequences of failing to meet them. At that meeting the appellant did not tell the ministry that he had any reasons he could not follow through with his obligations of the EP. On September 26, 2017 the appellant met with EPBC and scheduled appointments for October 5<sup>th</sup> and 12<sup>th</sup> but the appellant did not attend these appointments. The appellant visited the EPBC office October 17<sup>th</sup> after the office was closed. There was no further contact with the appellant until his January assistance cheque was held and he visited the ministry office December 20, 2017 at which time he was informed he was ineligible for further income assistance due to non-compliance with his EP.

## PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the ministry's decision to deny the appellant income assistance, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of his employment plan. The ministry determined the appellant did not demonstrate reasonable efforts to participate in the employment related program and did not have a medical reason to cease participation in the program.

Section 9 of the Employment and Assistance Act states:

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.

The appellant's argument is that he was unable to comply with his obligations of the EP because he was searching for a new place to live due to unacceptable living conditions and a rat infestation at his home.

The ministry's argument is that the appellant was aware of his obligations listed in his EP and that he did not demonstrate reasonable efforts to participate in his employment related program as offered by EPBC. The appellant met with EPBC for once but did not attend any further meetings. The ministry maintains that the appellant had opportunities to discuss any reason he could not meet his obligations under the EP but failed to do so.

In coming to its decision, the panel considered the appellant's obligations contained in the EP including his obligation to take part in an employment related program offered by EPBC. The panel considered the requirement that he was to contact the ministry if there is any reason that he could not comply with its obligations. The evidence shows that the appellant did not inform the ministry or EPBC that he was unable to attend his appointments at the EPBC office. The evidence shows that the appellant met only once with EPBC where he scheduled future appointments that he did not attend. The evidence presented to the panel showed that between his August 24<sup>th</sup> meeting and his December 20, 2017 meeting with the ministry, he met only once with EPBC.

The panel considered the appellant's argument that he was looking for a new place to live and due to this search he was unable to attend his appointments with EPBC as required by his EP. The panel accepts the appellant's evidence that his residence was unacceptable and that he needed to find a new place to live, however the panel has insufficient evidence that the appellant made reasonable efforts to schedule his search for a new home around his appointments at EPBC. The panel considered that the appellant's appointments with EPBC were scheduled a week apart leaving the appellant a reasonable amount of time to meet with potential landlords. The panel considered that the appellant's EP placed the onus on him to inform the ministry and EPBC if he was unable to attend his appointments but he failed to do so.

The panel considered that the appellant did not present evidence that he had a medical condition that prevented him from attending his appointments with EPBC. The panel reviewed the appellant's EP and is satisfied that the appellant was aware he was obligated to inform the ministry if he had a medical condition that made him unable to meet the conditions of the EP.

Panel finds ministry's decision to be reasonably supported by the evidence. To be eligible for income assistance the appellant was required to enter into an EP and comply with its conditions as per s. 9(1). The appellant's EP contained a condition that he participates in an employment program. The panel finds the ministry was reasonable to determine the appellant did not make reasonable efforts to participate in the program with EPBC and that he had no medical reason not to participate. Therefore the panel finds the ministry was reasonable to determine the appellant did not comply with his EP and as per section 9(4) he is ineligible for income assistance.

The panel finds that the ministry's decision was reasonably supported by the evidence and confirms the decision.