

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision of January 18, 2018 (the “Reconsideration Decision”), which held that the Appellant was not eligible for income assistance for the months of December, 2017 and January, 2018, pursuant to section 29(3)(a)(i) of the *Employment and Assistance Regulation* (“EAR”), because he had, within 60 days of applying for income assistance, voluntarily left his job without just cause, contrary to sections 13(1)(a)(ii) and 13(2)(b) of the *Employment and Assistance Act* (“EAA”).

PART D – RELEVANT LEGISLATION

Section 13, EAA
Section 29, EAR

PART E – SUMMARY OF FACTS

The Appellant is an applicant for income assistance. The Appellant's last day of work at his previous employment was November 15, 2017.

The information before the Ministry at the time of the Reconsideration Decision included the following:

- the Appellant's Record of Employment ("ROE") from his most recent employer which sets out that:
 - the Appellant commenced his most recent job on July 2, 2017;
 - the Appellant occupied the position of "junior technician" for his most recent employer;
 - the Appellant's last day of work was November 15, 2017; and
 - the reason the Appellant left his last job was because he had quit;
- the Appellant's Application for Assistance, dated December 4, 2017;
- the Appellant's Request for Reconsideration ("RFR"), dated January 4, 2018, in which the Appellant stated that he quit his job because of "safety reasons that were not being addressed."

The RFR references "all relevant documents" that the Appellant wished to have considered but none were attached to the RFR itself.

In his Notice of Appeal, filed February 1, 2018, the Appellant stated that he was not aware that one was not allowed to "quit your job due to safety reasons." The Appellant indicated that he had brought his concern to his boss and to the attention of his boss' boss but that the alleged safety issue was still not fixed. The Appellant stated further that he did not want to have to quit his job just before Christmas.

After filing his Notice of Appeal, the Appellant also delivered a handwritten letter, dated February 26, 2018 (the "Letter") to the tribunal, in which he stated that:

- he had gone to his supervisor because of his concern about work orders he had been given;
- he felt his life was in danger and was losing sleep over the matter;
- when his immediate supervisor did not deal with his concerns, he went to the supervisor of his immediate supervisor;
- when nothing was done about his concerns, he could not continue to attend work; and
- he had hoped to get his job back or be paid compensation while he looked for alternative employment.

The panel admits the information contained in the Letter as written testimony in support of the information and records that were before the Ministry at the time of the Reconsideration Decision, pursuant to section 22(4) of the EAA as the Letter reiterates the Appellant's stated concerns about safety, the steps he took to have the concerns addressed, and the impact those concerns had on him.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for income assistance for the months of December, 2017 and January, 2018, pursuant to section 29(3)(a)(i) of the *Employment and Assistance Regulation* (“EAR”), because he had, within 60 days of applying for income assistance, voluntarily left his job without just cause, contrary to sections 13(1)(a)(ii) and 13(2)(b) of the *Employment and Assistance Act* (“EAA”).

Relevant Legislation

Section 13 of the EAA sets out what constitutes a failure to meet “employment-related obligations” and the consequences of such a failure for prescribed categories of recipients and applicants of income assistance:

Consequences of not meeting employment-related obligations

- 13** (1) Subject to the conditions of an employment plan, the family unit of an applicant or a recipient is subject to the consequence described in subsection (2) for a family unit matching the applicant's or recipient's family unit if
- (a) at any time while a recipient in the family unit is receiving income assistance or hardship assistance or within 60 days before an applicant in the family unit applies for income assistance, the applicant or recipient has
 - (i) failed to accept suitable employment,
 - (ii) voluntarily left employment without just cause, or
 - (iii) been dismissed from employment for just cause, or
 - (b) at any time while a recipient in the family unit is receiving income assistance or hardship assistance, the recipient fails to demonstrate reasonable efforts to search for employment.
- (2) For the purposes of subsection (1),
- (a) if a family unit includes dependent children, the income assistance or hardship assistance provided to or for the family unit must be reduced by the prescribed amount for the prescribed period, and
 - (b) if a family unit does not include dependent children, the family unit is not eligible for income assistance for the prescribed period.
- (3) The Lieutenant Governor in Council may specify by regulation categories of applicants or recipients to whose family units this section does not apply.

Section 29 of the EAR sets out the specific sanctions for failing to meet “employment-related obligations” applicable to various categories of recipients and applicants of income assistance:

Consequences of failing to meet employment-related obligations

- 29** (1) For the purposes of section 13 (2) (a) [*consequences of not meeting employment-related obligations*] of the Act,
- (a) for a default referred to in section 13 (1) (a) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each of 2 calendar months starting from the later of the following dates:

(i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;

(ii) the date the default occurred, and

(b) for a default referred to in section 13 (1) (b) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each calendar month until the later of the following occurs:

(i) the income assistance or hardship assistance provided to the family unit has been reduced for one calendar month;

(ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

(2) The reduction under subsection (1) applies in respect of each applicant or recipient in a family unit who does anything prohibited under section 13 (1) [*consequences of not meeting employment-related obligations*] of the Act.

(3) For the purposes of section 13 (2) (b) [*consequences of not meeting employment-related obligations*] of the Act, the period of ineligibility for income assistance lasts

(a) for a default referred to in section 13 (1) (a) of the Act, until 2 calendar months have elapsed from the later of the following dates:

(i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;

(ii) the date the default occurred, and

(b) for a default referred to in section 13 (1) (b) of the Act, until the later of the following has occurred:

(i) the family unit has been ineligible for income assistance for one calendar month;

(ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

(4) Section 13 [*consequences of not meeting employment-related obligations*] of the Act does not apply to a family unit of an applicant or recipient who is in any of the following categories:

(a) Repealed. [B.C. Reg. 116/2003, Sch. 1, s. 2 (a).]

(b) sole applicants or sole recipients who have at least one dependent child who

(i) has not reached 3 years of age, or

(ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;

(c) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(d) sole applicants or sole recipients who are providing care to a child in care who

(i) has not reached 3 years of age, or

(ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the

purposes of employment;

(e) persons who receive accommodation and care in a special care facility or private hospital;

(f) applicants or recipients admitted to hospital because they require extended care;

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

(h) applicants or recipients in a family unit that includes only applicants or recipients who are

(i) Repealed. [B.C. Reg. 160/2004, s. 2.]

(ii) persons who are participating in a treatment or rehabilitation program approved by the minister, if their participation in that program, in the minister's opinion, interferes with their ability to search for, accept or continue in employment,

(iii) persons who have separated from an abusive spouse or relative within the previous 6 months, if, in the minister's opinion, the abuse or the separation interferes with their ability to search for, accept or continue in employment,

(iv) persons not described in section 7 (2) *[citizenship requirements]*,

(v) persons who have persistent multiple barriers to employment, or

(vi) persons who have reached 65 years of age;

(i) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(j) sole applicants or sole recipients who are providing care under an agreement referred to in section 8 *[agreements with child's kin and others]* of the *Child, Family and Community Service Act* for a child who

(i) has not reached 3 years of age, or

(ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;

(k) sole applicants or sole recipients who are providing care under an agreement referred to in section 93 (1) (g) (ii) *[other powers and duties of directors]* of the *Child, Family and Community Service Act* for a child who

(i) has not reached 3 years of age, or

(ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment.

Panel Decision

Pursuant to Section 13(1)(a) of the EAA, an applicant of income assistance is in default of his or her work-related obligations where he or she either:

- (i) failed to accept suitable employment,
- (ii) voluntarily left employment *without just cause*, or
- (iii) been dismissed from employment for just cause,

within 60 of making an application for income assistance.

Pursuant to section 13(2)(b) of the EAA, a family unit with no children, which describes the Appellant's circumstances, is not eligible for income assistance for the periods prescribed by section 29(3) of the EAR, where the recipient or applicant is in default of his or her work-related obligations, as set out in section 13(1)(a) of the EAA.

The prescribed period of ineligibility for an applicant whose circumstances fit within section 13(2)(b) of the EAA and who does not meet any of the exemptions set out in section 29(4) of the EAR is two calendar months from "the date of the applicant's submission of the application for income assistance", pursuant to section 29(3) of the EAR.

There is no dispute that the Appellant voluntarily left his most recent employment on November 15, 2017 or that he did so within 60 days of submitting his application for income assistance on December 4, 2017. Accordingly, if the Appellant left his employment without just cause, the period of ineligibility would be the months of December, 2017, the month in which his application for income assistance was submitted, and January, 2018.

The issue in this appeal comes down to the question of whether the Appellant left his most recent employment without just cause.

The Appellant submits that he left his employment because of safety concerns. The safety concerns, however, are not specified anywhere in the Appeal Record. Despite the Appellant's stated concerns about workplace safety, there is insufficient evidence before the panel that the Appellant reported his concerns to either Worksafe BC, the Employment Standards Branch, or any other entity charged with protecting the safety of employees in British Columbia. In the evidence before the panel, he stated only that he had reported his concerns to his supervisor and to his supervisor's supervisor.

In the RFR, there is also reference to the Ministry having contacted the Appellant's employer who is said to have advised the Ministry that there were no extenuating circumstances surrounding the Appellant's decision to quit.

In the absence of specific evidence about the Appellant's concerns for his safety, the panel finds that there is insufficient evidence before it that the Appellant had cause for voluntarily leaving his employment.

In the result, the panel finds that Ministry reasonably applied sections 13(1)(a) of the EAA in determining that the Appellant had not complied with his employment-related obligations under the EAA and that he was not eligible for income assistance for the months of December, 2017 and January, 2018, which is the period of ineligibility prescribed by section 29(3) of the EAR.

The Appellant is not successful in the appeal.