

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated February 20, 2018 which found that the appellant was not eligible for income assistance as he voluntarily left his employment without just cause contrary to section 13(1)(a)(ii) of the Employment and Assistance Act (EAA). The ministry also determined that the prescribed period of ineligibility for assistance was two calendar months, being December 2017 and January 2018, as set out in section 29(3)(a)(ii) of the Employment and Assistance Regulation (EAR).

PART D – RELEVANT LEGISLATION

Section 13 EAA and section 29 EAR

PART E – SUMMARY OF FACTS

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

- The appellant is a sole employable recipient since August 30, 2016.
- January 3, 2018 – the appellant submitted his Record of Employment (ROE) which indicated that he had quit his employment as a dishwasher/prep with November 24, 2017 being the last day worked. The appellant advised the ministry that he did not receive enough hours and had resigned from his position. The ministry informed the appellant that he may be subject to a sanction of ineligibility for assistance for a period of two months for quitting his job without cause.
- January 12, 2018 – the appellant submitted a note to the ministry advising he had found part-time employment as a janitor and that he would be making a higher wage than his last job. The appellant advised the ministry that he would be making \$15 per hour and he hoped that this would resolve a possible sanction as he had found a better job than the one he had left.
- January 31, 2018 – the ministry advised the appellant that because he had voluntarily left employment without just cause he is ineligible for assistance for 2 calendar months. The ministry states that the appellant quit his job and did not have a new job secured at that time and therefore is subject to a sanction of two months ineligibility, which results in the appellant being not eligible for February and March assistance as per section 13 EAA.
- February 6, 2018 – the appellant submitted his Request for Reconsideration stating:
 - I was working and was not getting many hours at the start. I was getting good hours, \$500 every 2 weeks sometimes less. After I was only getting 20 hours a month.
 - My co-worker left for most of last summer and I was told I would be second to be called. All of a sudden, my co-worker came back, and I was put back at the end of the list which is not right because he was gone for 4-7 months.
 - I only made \$498 most times. I would go a month or 3 weeks without work. That plus getting put at the bottom of the call list was why I quit.

Notice of Appeal dated February 28, 2018, the appellant states that he disagrees with the denial.

At the Hearing

The appellant's advocate states that the appellant was homeless, is now in subsidized housing and is at risk of becoming homeless again without income assistance. The advocate states that the appellant left his employment for "just cause" because his take home pay was reduced without justification. Further, the advocate states that the appellant informed the ministry that he was leaving his employment before his last day of work on November 24, 2017.

The ministry relied on the reconsideration decision, as summarized at the hearing. The ministry stated that the appellant voluntarily left his employment before he had another job lined up.

The panel admitted the appellant's advocates' testimony, which either substantiated or further explained information already before the ministry, as being in support of the information and records 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 in this appeal is whether the ministry's reconsideration decision finding the appellant ineligible for income assistance for voluntarily leaving his employment without just cause and imposing a two-month period of ineligibility for December 2017 and January 2018 was reasonable, pursuant to section 13 EAA and section 29 EAR.

Relevant legislation:

EAA

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.

EAR

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 in to 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:

The ministry's position, as set out in the reconsideration decision, is that because the appellant is a sole employable recipient of income assistance who voluntarily left his employment without just cause pursuant to section 13(1)(a)(ii) EAR that he is not eligible for assistance for a prescribed period pursuant to section 13(2)(b) EAA. The ministry determined that the appellant is subject to the consequences of failing to meet employment-related obligations of 2 calendar months as set out in section 29(3)(a)(ii) EAR. The ministry argues that if the appellant was not satisfied with his employment as a dishwasher/prep, it would have been reasonable for him to find new employment first prior to leaving his employment and therefore, the appellant is ineligible for assistance for two calendar months from the date the default occurred. Because the last day the appellant was paid for work was November 24, 2017, the ministry determined the two-calendar month sanction is for the calendar months of December 2017 and January 2018.

The appellant's position is that he was not getting many hours at the start, his co-worker left for several months and he was told he was second on the call list. His co-worker returned, and the appellant was put back at the end of the call list which resulted in his hours being reduced. He argues that he went 3 weeks or a month without work, so because of the reduced hours and getting put at the bottom of the call list is why he quit. He further states that this reduction in hours and pay is a change without justification and results in him having just cause to leave his employment. After leaving this employment, the appellant states that he found part-time employment expecting to earn higher income than before and he hoped that this new employment would resolve a possible sanction as he had found a better job than the one he had left. At the hearing the appellant stated that this part-time employment did not occur, and he is still not employed.

Section 29(4) EAR provides that the consequences of failing to meet employment related obligations do not apply if certain conditions are met such as: applicants with a dependent under age 3, applicants receiving accommodation and care in a special care facility or private hospital, applicants admitted to hospital because they required extended care, persons residing with and caring for a spouse who has a physical or mental condition that precludes the person from leaving home for the purposes of employment, persons participating in a treatment program approved by the minister, persons who have separated from an abusive spouse, persons with persistent multiple barriers to employment or persons who are 65 or older. In addition to the conditions of section 29(4) EAR, ministry sanctions policy states that in assessing whether there is just cause for persons who quit or refused employment or who were dismissed, the factors

considered in determining when there may be “just cause” include a reasonable assurance of another job. There is no evidence to demonstrate that the appellant met any of the exemptions listed under section 29(4) EAR, nor did he argue that any of them were relevant to him. The appellant did not have new employment secured before leaving a job that the ROE confirmed he had received \$254.60, \$154.30 and \$410.34 in his last three bi-weekly pay periods for, so the panel finds that the ministry was reasonable in determining that the appellant did not have just cause for leaving employment, therefore, the consequences set out in section 29(3)(a) EAR apply.

The panel finds that the ministry reasonably concluded that the appellant was ineligible for income assistance for leaving his employment without just cause as set out in section 13(1)(a)(ii) of the EAA. The panel also finds that the ministry was reasonable in finding the appellant ineligible for income assistance for the two months of December 2017 and January 2018 pursuant to section 29(3)(a) EAR. The panel therefore confirms the ministry’s decision.

The appellant is not successful on appeal.