

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry's) reconsideration decision dated October 26, 2018 whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA) for not complying with the conditions of his Employment Plan (EP), due to his failure to demonstrate reasonable efforts to participate in the employment-related program and with no medical reason for ceasing to participate.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Section 9

PART E – SUMMARY OF FACTS

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

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

- 1) Letter dated March 14, 2018 to the appellant in which the ministry enclosed the Employment Plan (EP) for signature and wrote that a decision on his eligibility will be determined once all documentation is reviewed by the ministry;
- 2) EP signed by the appellant and dated March 21, 2018. The terms of the EP include to:
 - Meet with the EP contractor on a regular basis.
 - Take part in the contractor program activities as agreed to with the contractor;
 - Complete all tasks given to him, including any activities set out in his Action Plan;
 - Call the contractor if he is unable to attend a session, or when he finds work;
- 3) Letter dated July 4, 2018 to the appellant in which the ministry directed the appellant to contact his EP worker directly by telephone;
- 4) Record of Employment (ROE) dated July 6, 2018 which indicated that the appellant commenced work on June 20, 2018, was dismissed by the employer, and last worked on June 29, 2018;
- 5) Letter dated August 23, 2018 to the appellant in which the ministry wrote that the appellant must provide the ministry with a ROE from his employer and contact his EP worker by telephone by September 21, 2018 to ensure that his assistance cheque is not delayed; and,
- 6) Request for Reconsideration dated March 13, 2017.

In his Request for Reconsideration, the appellant wrote:

- He advised the ministry that he quit his job as he could not get to the other community for the late-night shift as the last bus leaves much earlier in the evening.
- He attempted to ride his bicycle home from work but it was too dangerous at that time of the night.
- He considered other ways of getting to and from work but none was possible.
- Coming out of a treatment center and now living in a supportive independent living program, he believed that his progress in his addiction recovery was more important at that time as he continued to search for employment.

Additional information

In his Notice of Appeal dated November 6, 2018, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that he was actively looking for work and he acquired work recently. The appellant wrote that he has been working on his recovery from addictions and relapse prevention.

The ministry relied on the reconsideration decision, as summarized at the hearing. At the hearing, the ministry clarified that:

- The EP required that the appellant must meet with the EP contractor on a regular basis, and they would develop an Action Plan together with the goal of helping the client become more employable. Sometimes the client will provide the ministry with a copy of the Action Plan, but there was no Plan on file with the ministry in this case.
- The appellant's last day of work was June 29, 2018 and the information was given to the EP contractor on July 3, 2018 and when the appellant did not reconnect with the EP contractor, his file was closed. The ministry acknowledged that the appellant's file was closed by the EP contractor quite quickly, and stated that the ministry continued to try to connect with the appellant to clarify his activities since he left his employment at the end of June 2018. The ministry sent letters to the appellant in an effort to get him to contact the EP contractor and the ministry.
- The ministry needs more than just a declaration by the client that he was working on his continued recovery from addiction or that he is looking for work.
- The ministry relies on the appellant to provide further information about his efforts to work with the representative of the treatment center. The expectation is that he would set out the specific dates of the required activities that would interfere with his ability to also work with the EP contractor.
- If the appellant had provided the ministry with a detailed log of the efforts he had made for an independent work search, then his EP would likely have been updated and he could then continue to engage in an independent Work Search, especially since he has shown that he has achieved a level of employability with his obtaining a job in June 2018.

The panel considered that there was no additional information for which a determination of admissibility was required under Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's conclusion that the appellant did not comply with the conditions of his EP, due to his failure to demonstrate reasonable efforts to participate in the employment-related program and with no medical reason for ceasing to participate and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA) is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the appellant's circumstances.

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.
- (5) If a dependent youth fails to comply with subsection (2), the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.
- (6) The minister may amend, suspend or cancel an employment plan.
- (7) A decision under this section
- (a) requiring a person to enter into an employment plan,
 - (b) amending, suspending or cancelling an employment plan, or
 - (c) specifying the conditions of an employment plan
- is final and conclusive and is not open to review by a court on any ground or to appeal under section 17 (3) [reconsideration and appeal rights].

Panel's decision

In the reconsideration decision, the ministry determined that the appellant did not comply with the conditions of his EP, due to his failure to demonstrate reasonable efforts to participate in the employment-related program and with no medical reason for ceasing to participate and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the EAA. The ministry wrote that the appellant entered into an EP dated March 21, 2018, and the conditions of his EP required that he meet with the EP contractor on a regular basis, take part in

the contractor program activities as agreed to with the contractor, complete all tasks given to him, and contact the contractor if he is unable to attend a session. The ministry wrote that on July 4, 2018 the EP contractor advised the ministry that the appellant was terminated from his employment as he missed work and he did not contact his employer. The appellant wrote in this Request for Reconsideration that he advised the ministry that he quit his job as he could not get to the community for the late-night shift as the last bus leaves much earlier in the evening, it was too dangerous to ride his bicycle home from work at that time of the night, and he considered other ways of getting to and from work but none was possible. The ministry reasonably considered that the ROE provided by the appellant on August 30, 2018 confirmed that the appellant had been dismissed by the employer from his employment.

The ministry wrote that on October 5, 2018 the appellant advised that he had been continuing to work with the addiction treatment center. In his Notice of Appeal, the appellant wrote that he was working on his recovery from addictions and relapse prevention. The ministry wrote that a review of the appellant's file indicated that he resided in a treatment center from November 2017 until January 2018. The ministry wrote that the appellant reported to the ministry that he left a message with the EP contractor; however, as the appellant did not attend the hearing, there was no further information available about the date that the appellant left the message for the EP contractor, or the content of the message. There was also no further information provided about the requirements of the appellant's work to overcome his addiction in order for the ministry to determine whether these activities might interfere with his ability to continue with his EP. The ministry reasonably considered that while the appellant may have an addiction, he did not provide a medical report to the ministry to confirm that he was medically unable to participate in his EP.

The ministry considered that when the appellant was asked for a reason that he did not connect with either the EP contractor or with the representative from the treatment center, he stated on October 5, 2018 that he thought that he was not reconnecting because he was looking for work. At the hearing, the ministry stated that the ministry requires more than a statement by the appellant that he is looking for work, in the form of a detailed log of the ongoing efforts that he has made. The ministry stated that if the appellant had provided the ministry with a log of the efforts he had made for an independent work search, then his EP would likely have been updated and he could then continue to engage in an independent Work Search, especially since he has shown that he has achieved a level of employability with his obtaining a job in June 2018.

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance. Therefore, the ministry reasonably considered that the appellant signed an EP on March 21, 2018 and that the conditions were for the appellant to take part in the contractor program activities as agreed with by the contractor, complete all tasks given to him, and to contact the

contractor if he is unable to attend a session.

The panel finds that the ministry reasonably considered the appellant's interactions with the contractor over the period since he signed the EP and the long gap of contact from the time that his file was closed at the beginning of July 2018. The appellant did not provide confirmation of his activities for either his addiction recovery or his work search over the period from the beginning of July 2018 until his contact with the ministry at the beginning of October 2018. To 'participate' is to take part in or to be actively involved in, and the panel finds that the ministry reasonably determined that the appellant failed to make reasonable efforts to participate in the program when he refused to take part in the program activities, including regular contact with the contractor, as directed.

The legislation requires that the appellant demonstrate reasonable efforts to participate in the program, or to provide a medical reason for ceasing to participate in the program, and the panel finds that the ministry reasonably concluded, pursuant to Section 9 of the EAA, that the requirements have not been met in this case.

Conclusion

The panel finds that the ministry decision, whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the EAA, was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision. The appellant's appeal, therefore, is not successful.

PART G -- ORDER

THE PANEL DECISION IS: (Check one) UNANIMOUS BY MAJORITY

THE PANEL CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister
for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H -- SIGNATURES

PRINT NAME

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018-11-27

PRINT NAME

Tina Ahnert

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018-11-27

PRINT NAME

Kulwant Bai

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018-11-27