

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry's) reconsideration decision dated November 19, 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 evidence before the ministry at the time of the reconsideration decision included:

- 1) Copy of incomplete Work Search Activities Record form;
- 2) EP signed by the appellant and dated May 31, 2018. The terms of the EP include to:
  - Meet with the EP contractor.
  - 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; and,
- 3) Request for Reconsideration dated November 8, 2018.

In his Request for Reconsideration, the appellant wrote:

- He has been looking for employment. His search has been unconventional, as advised by more than one Work BC instructor.
- He has limited funds to get to work.
- The EP system is not designed for people like him who are performing unconventional work searches.
- Some of his personal faults (e.g. procrastination, mood swings, etc.) have led the ministry to draw an incorrect view of him and this has negatively affected his work search.
- He has been conducting a work search as required by the ministry, but he did not report it correctly.

### ***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 it is not easy for someone his age to find work. He would like an opportunity to describe in person the efforts he has made and the problems he has encountered.

At the hearing, the appellant stated:

- He has been looking for work. He has been trying.
- He had been scheduled for a one-week course for developing a resume and he had some activities that conflicted with some of the course. He made it to most of the week except for one small part.
- He thought the week could be re-scheduled but it turned out that it could not be done.
- He believes that partially this situation resulted from a misunderstanding.
- He was a bit late for the first day and he ended up speaking with both a manager and a worker and there was a possible miscommunication. He realizes, in hindsight, that it would have been better if he spoke with both of them at the same time. He believes this was the point where everything went wrong. He was late because he could not find parking.
- If he had been able to take the courses when he wanted to, that would have been better.

- He would have gone back to school if he had the finances to allow it.
- His work searches are considered “unconventional” because he used his background in the political science field to study the last Presidential election in the United States and he had also done research into teaching methods. He put himself into positions where he could meet people and network, and he thought these activities might result in some work.
- With his educational background, he believes that he is well-suited for playing poker, which is an opportunity to network, but without funds it is difficult to “look for work” in this way. These activities are hard to document.
- He has been a soccer fan all his life and there was a crucial game that would determine if his team would be in the semi-finals and he did not want to miss it. All the people he knows and had made connections with were going to be watching the game at the Casino.
- Several years ago, he got what he thought was full-time work with a company that ended up closing its Canadian stores a few months later. He has not had any work for several months.
- He does not have a medical condition that impacted his ability to participate in the EP program. His reference to “mood swings” only reflects the frustration that he has experienced in trying to find work.
- He believes his limitations for finding work are his age, since he is starting to slow down and he could not sustain physical work for a prolonged period of time. His credentials for teaching need to be updated and supplemented. He did not submit a resume when requested because he wanted to take a course to learn how to improve his resume before he sent it out.
- He did not submit a work search log because he thought his time would be better spent meeting people and trying to get a job.
- He did not realize the consequences of his not submitting the resume and the job search log.
- He believes there is a job out there for him.

The ministry relied on the reconsideration decision, as summarized at the hearing.

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 May 31, 2018, and the conditions of his EP required that he meet with the EP contractor, 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 the EP contractor required that the appellant email his digital resume and his job search log by August 28, 2018 and the EP contractor advised the ministry on October 11, 2018 that the appellant had not yet provided these documents. The EP contractor advised the ministry that the appellant had not submitted any evidence of a job search since his action plan had been renewed in June 2018. The ministry wrote that the EP contractor advised that the appellant did not attend some workshops because he was watching a World Cup soccer game.

At the hearing, the appellant acknowledged that he had not provided a resume to the EP contractor and explained that he needed to receive some training on how to improve his resume before he would submit it. He admitted that this seemed like a "Catch-22" situation as he had not attended all of the workshops that might have assisted with these skills. He acknowledged that he had missed some workshops because of the soccer game, but explained that he believed he could network at the soccer game and that this was part of his unconventional work search approach. The appellant acknowledged that he did not submit a work search log, as required by the EP contractor, and explained that he did not think he could properly document his unconventional activities of networking from watching the US Presidential election, playing poker, and watching the World Cup soccer game, and he was concerned that these activities would not be accepted. The appellant stated that he does not have a medical condition that impacted his participation with the EP program.

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 May 31, 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 EP contractor over the period since he signed the EP and that the appellant had not submitted a resume and a job search log by August 28, 2018, as required by the EP contractor. The appellant stated that he believed his resume was not ready to be submitted and that he was not sure if his unconventional work search activities would be acceptable. The Work Search Activities Record requests information about the "date", "type", and "location" of activity along with a contact name and telephone number and the results of the activity. There was an option for the appellant to fill out the form listing his unconventional activities and then to speak with the EP contractor to determine whether this approach was acceptable, but he did not do so.

There was also an option for the appellant to provide his resume that he considered outdated and then to speak with the EP contractor about his need for assistance with improving his resume, but he did not do so. The appellant admitted that he had not submitted the documents

and he had not attended some of the workshops, as required by the EP contractor. To 'participate' in the EP 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 neglected to submit the required documents and to attend the program activities.

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.

<b>PART G – ORDER</b>	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>LEGISLATIVE AUTHORITY FOR THE DECISION:</b>	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input type="checkbox"/> or Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

<b>PART H – SIGNATURES</b>	
PRINT NAME S. Walters	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018-12-14

PRINT NAME Kim Polowek	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018-12-14
PRINT NAME Kulwant Bal	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018-12-14