

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision of February 15, 2019 (the “Reconsideration Decision”), which denied the Appellant income assistance after February 5, 2019 on the basis that the Appellant was non-compliant with the employment plan given to her, pursuant to section 9(1) the *Employment and Assistance Act* (“EAA”).

**PART D – RELEVANT LEGISLATION**

EAA, section 9

## PART E – SUMMARY OF FACTS

The Appellant is a sole recipient of regular income assistance who is the parent of one child.

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

- The Appellant's employment plan, signed November 26, 2017 (the "Employment Plan"), which required the Appellant to complete a number of tasks by certain dates, including:
  - researching the labour market;
  - participating in informational interviews;
  - participating in an employment bootcamp;
- The Appellant's action plan, signed May 24, 2018 (the "Action Plan"), which required the Appellant to complete further tasks, including:
  - registering for an English upgrading course;
  - continuing to look for work and document job search efforts ;
  - participating in employment related activities with a referral program ;
  - creating a new resume;
  - connecting with a local college to upgrade courses;
  - reviewing labour market information;
  - finding job postings for a specific position
  - a follow-up by June 6, 2018
- Letter from the Ministry to the Appellant, advising her that she was ineligible for income assistance by virtue of having not complied with her Employment Plan;
- The Appellant's Request for Reconsideration ("RFR"), dated February 7, 2019, in which the Ministry detailed the Appellant's history of not following the Employment Plan, including
  - on April 19, 2018, the Ministry was advised that the Appellant had not been participating in the employment program required by the Ministry's contractor;
  - on May 8, 2018, the Ministry's contractor advised the Ministry that the Appellant had not been attending required workshops;
  - on May 23, 2018 the Appellant advised the Ministry that she could not attend a workshop because her daughter was sick and was advised that her June income assistance cheque would not be released until the Action Plan was submitted;
  - on December 20, 2018, the Ministry's contractor again advised the Ministry that the Appellant's participation in its programs had been "minimal"; and
  - on February 4, 2019, the Appellant had failed to provide evidence that she had applied for no at least ten jobs and did not attend a scheduled appointment with an employment coach at the Ministry's contractor;
- In the RFR, the Appellant also stated that she:
  - is a single mother of a teenager;
  - was involved in an accident 5 years ago;
  - recently decided what career path she wanted to pursue;
  - has been caring for her sister's children since prior to Christmas and is providing care for two children to make ends meet, making it hard for her to attend any meeting scheduled earlier than 3 o'clock; and
  - had been doing everything asked of her in workshop's and just finished her ten job searches.

In her Notice of Appeal, the Appellant stated simply that she disagreed with the Reconsideration Decision because she needs extra help as single mom who is not able to work. The Appellant also

stated that she followed through with "most" of the Employment Plan and workshops and that she would "do better" if the tribunal was to "reconsider and help me out."

At the hearing of the appeal, the Appellant stated that:

- She had been in an accident six years ago and had been unable to work for several years;
- She has a care aid designation but, due to the injuries suffered in her accident, can no longer work in that field and cannot lift in excess of 25 pounds;
- She wants to become an administrative assistant;
- She receives child support from the father of her daughter but that she can't live on that alone;
- She doesn't drive and has a hard time walking;
- She did some child care near the end of 2018 and into the early part of 2019 in order to make ends meet;
- She completed all of the workshops required of her by the Ministry's contractor;
- She missed several appointments with the Ministry's contractor due to:
  - conflicts with her daughter's schedule;
  - illnesses that her daughter had; and
  - her part-time work schedule
- She attended all of the required bootcamps but did not complete sending out 10 job applications by February 4, 2019, as required, but that she had sent out 8 job applications.

At the hearing the representative for the Ministry referred to the Reconsideration Decision and emphasized that:

- On April 27, 2018, the Ministry advised the Appellant about her absences from several of the programs required by the Ministry's contractor;
- On May 8, the Ministry's contractor confirmed to the Ministry that the Appellant had not attended any workshops or appointments but that the Appellant had been spoken to about compliance with her Employment Plan;
- On May 23, the Ministry explained to the Appellant that the Employment Plan must be complied with and that her June income assistance cheque would not be released until she was in compliance;
- In December, 2018:
  - the Ministry was advised that the Appellant's participation in the programs of its contractor had been minimal and that the Appellant had advised that she was looking after the children of her sister; and
  - the Ministry had another discussion with the Appellant about compliance with her Employment Plan;
- In January, 2019, the Appellant was required to apply to a minimum of 10 jobs by February 4, 2019;
- On February 4, 2019, the Ministry was advised that the Appellant had not attended an appointment with the Ministry contractor on February 4, 2019 nor had she completed 10 job applications as required.

The Ministry representative also noted that, despite the Appellant's having advised that she was doing child care on a part-time basis to supplement her income, no income was reported in this regard as part of the Appellant's monthly reporting obligations. Likewise, the Appellant had not provided medical evidence to document her daughter's illnesses. The Ministry representative also advised that the Ministry typically would not discontinue assistance for failure to follow an Employment Plan until it was satisfied that an applicant was fully aware of the consequences of non-compliance.

The panel accepts the evidence given by the Appellant and the Ministry representative at the hearing of

[Redacted]

the appeal as oral testimony in support of the information and records that were before the Ministry at the time of the Reconsideration Decision, in accordance with section 22(4)(b) of the EAA.

[Redacted]

## **PART F – REASONS FOR PANEL DECISION**

The issue on appeal is whether the Ministry's determination that the Appellant was ineligible for income assistance after February 5, 2019, as a result of having failed to comply with her Employment Plan, was reasonably supported by the evidence before the Ministry or was a reasonable application of section 9(1) of the EAA in the Appellant's circumstances.

### *Legislative Framework*

Section 9 of the EAA sets out that that, in order to be eligible for income assistance, an applicant must comply with an employment plan if required to enter into one:

### **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 Decision*

The relevant statutory provision is clear. When required to enter into an employment plan, failure to comply with the employment plan makes an applicant ineligible for income assistance. While the Ministry appears to have avoided applying section 9 of the EAA strictly in the Appellant's circumstances upon the first instance of non-compliance by the Appellant and, instead, exercised some discretion to not discontinue the Appellant's income assistance at that time, it is within the statutory authority of the Ministry to discontinue income assistance where an applicant for assistance does not comply with his or her employment plan.

In these circumstances, there is considerable evidence of non-compliance. The Appellant does not deny that she has failed to fully comply with the conditions of her Employment Plan, arguing instead that she completed "most" of the tasks assigned to her. Although she stated that she attended all of the workshops that she was required to attend, the evidence from the Ministry is that she did not. Either way, her income assistance was discontinued due to her having failed to submit 10 job applications by February 4, 2019. The Appellant agrees that she did not do this and states that she completed 8 such applications. Prior to this, the evidence is that the Appellant was spoken to by the Ministry on at least two previous occasions about her failure to comply with the terms of her employment plan, in May, 2018 and in December, 2018, respectively. These two instances were in addition to the Appellant's having signed the Employment Plan, which included an acknowledgment that failure to comply with the Employment Plan will result in income assistance being discontinued.

In view of the evidence before the Ministry at the time of the Reconsideration Decision as to the Appellant's non-compliance with her Employment Plan, which the Appellant did not deny, the lack of evidence corroborating the reasons given by the Appellant for her non-attendance at appointments and failure to complete employment-related requirements from the Ministry's contractor, and the fact that section 9 of the EAA makes clear that compliance with an employment plan is a condition for receiving disability assistance, the panel finds that the Reconsideration Decision was reasonably supported by the evidence before the Ministry. The Appellant is not successful in this appeal.

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**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  
Adam Shee

SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY)
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PRINT NAME  
Shirley Heafey

SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY)
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PRINT NAME  
Barbara Insley

	DATE (YEAR/MONTH/DAY)
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