

APPEAL NUMBER

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) Reconsideration Decision dated December 2, 2019 which found the appellant ineligible for income assistance due to non-compliance with an employment plan.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance Act (EAA) section 9

**PART E – SUMMARY OF FACTS**

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

Information before the minister when the reconsideration decision was made included:

- A copy of a ministry Employment Plan signed by the appellant December 31, 2018, which included an acknowledgement that it is a condition of eligibility that the plan must be signed indicating compliance with the conditions set out in the plan.
- A letter from the ministry to the appellant dated January 15, 2019 advising that the February payment cheque was being held until additional information was received.
- On January 17, 2019 a ministry worker contacted the appellant to discuss compliance obligations and sanctions. The appellant later contacted the ministry to request a transfer of WorkBC office. The ministry responded to reiterate the obligations and sanctions for non-compliance.
- A letter from the ministry to the appellant dated February 28, 2019 informing that the April payment was on hold for non-compliance.
- A letter from the ministry to the appellant dated June 13, 2019 advising that the July payment cheque was being held until additional information was received.
- A copy of an employment contractor Action Plan dated June 26, 2019. The July assistance was released.
- A letter from the ministry to the appellant dated August 26, 2019 advising that the October cheque was being held.
- The appellant's Request for Reconsideration signed November 11, 2019.

The appellant included a statement with the Notice of Appeal to the Tribunal: "I disagree with the appeal because I know I missed meeting, but I have been going to [the employment contractor] handing in my work searches. Went a couple of days to see [contractor name] in person but he went on holidays." The panel accepted the appellant's note as argument. In Section Three of the Reconsideration submitted on November 18, 2019 the appellant wrote: "I know that I have not been complaint with my Work Action Plan. As I stated on September 13, 2019 I have been dealing with a lot of personal issues and been going through depression. I thought I could continue with my Action Plan. I tried very hard but was unable to uphold my end of the agreement. I've tried various forms to get out of my depression. I just feel very stuck. I believe that it has a lot to do with all the career changes that I went through. I had a very steady job and good pay and I just hit a bump and lost everything. Ever since those incidents I haven't bee able to regain my sense of being...."

At the hearing, the ministry relied on the summary of facts as stated in the Reconsideration Decision:

The appellant signed an Employment Plan (EP) on December 31, 2018 agreeing, among other things, to meet with the employment contractor on or before January 14, 2019, take part in all tasks assigned and advise the contractor if unable to take part in services or complete steps or finds work. The contractor reported to the ministry that the appellant had not made contact by January 14, 2019, although attempts had been made for contact by telephone, email and post. The ministry put the appellant's February income assistance cheque on hold.

On February 21 the contractor advised the ministry that the appellant did not attend scheduled workshops on 6 dates in February. On February 28, 2019, the ministry put the income assistance cheque on hold until the appellant made contact on March 14.

On June 7, 2019 the contractor advised the ministry that the appellant had missed 2 appointments in May. The ministry put a hold on the income assistance cheques until the appellant contacted the ministry and provided a copy of an Action Plan on June 28.

On August 23, 2019 the contractor advised the ministry that the appellant cancelled the July 18 appointment, rebooked for August 2 and did not attend the rebooked meeting. On August 26 the ministry put a hold on the appellant's income assistance cheque.

On September 13, 2019 the appellant contacted the ministry advising that the appellant had been sick. The ministry asked the appellant to reconnect with the contractor.

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On November 1, 2019 the contractor advised the ministry that the appellant submitted a job search on October 2 and scheduled an appointment for October 9, but did not attend that appointment or one on October 9 or 10. The contractor reported attempting to contact the appellant twice with no success.

On November 6, 2019 the ministry advised the appellant that eligibility for income assistance was denied due to non-compliance with the EP.

In response to a question from the panel the ministry replied that the appellant did not submit any medical documentation to support statements that the appellant was sick.

**PART F – REASONS FOR PANEL DECISION**

The issue in this appeal is the reasonableness of the ministry decision which found the appellant ineligible for income assistance due to non-compliance with the employment plan.

**Legislation****EAA****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*].

The appellant's position (from the Request for Reconsideration) is that appellant knew of non-compliance with the EP, but depression is holding the appellant back. The appellant would like to be able to fulfill the agreement but doesn't know where to start. (From Notice of Appeal) The appellant knows and confirms missed meeting[s], but acknowledges some communication with the employment contractor and handing in work searches.

The ministry's position is that the appellant has not demonstrated reasonable efforts to comply with the conditions of the employment plan and is therefore not eligible for income assistance.

The panel notes that the appellant stated that an inability to attend the employment contractor in March and September, 2019 for medical reasons, however there is no record of any medical documentation to support this, and the appellant immediately contacted the employment contractor after being contacted. In each case, the appellant appears to have resumed contact with the employment contractor only after the income assistance cheques were held by the ministry. The record of missed appointments and failure to contact the ministry or contractor as required happened more than 12 times in a one-year period. In the panel's view this indicates that the ministry reasonably determined that the appellant did not demonstrate reasonable efforts to comply with the conditions of the employment plan.

The panel confirms the ministry decision. The appellant is not successful.

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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

Reece Wrightman

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020 Jan 13

PRINT NAME

Shirley Heafey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020 Jan 13

PRINT NAME

On behalf of Diane O'Connor

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020 Jan 13