

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision, dated December 11, 2023 (the "Reconsideration Decision") of the Ministry of Social Development and Poverty Reduction (the "Ministry"). The Ministry determined that the Appellant was not eligible for income assistance because the Appellant had failed to make reasonable efforts to comply with an employment plan entered into on June 24, 2022.

Part D – Relevant Legislation

Employment and Assistance Act (the "Act")- section 9

A full text of the relevant legislation appears at the end of Part F of this decision.

Part E – Summary of Facts

The Appellant is a sole recipient of income assistance with no dependents. The Appellant has been in receipt of income assistance since June 2022 and entered into an employment plan on June 24, 2022 (although the Reconsideration Decision references a date of June 24, 2023, the Employment Plan was signed by the Appellant on June 24, 2022, which is consistent with when the Appellant began receiving income assistance).

The Appellant has been receiving \$1,060.00 per month in assistance (a support allowance of \$560.00 and \$500.00 in shelter allowance).

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

- The Employment Plan, dated June 24, 2022, which included:
 - a term from June 24, 2022 to June 23, 2024;
 - a requirement that the Appellant meet the Ministry's work placement contractor (the "Ministry Contractor") by July 26, 2022;
 - a requirement that the Appellant participate in activities "as agreed to with the contractor";
 - a requirement to complete all tasks given by the Ministry Contractor;
 - a requirement that the Appellant advise the Ministry' Contractor of any inability to complete steps previously agreed to; and
 - a requirement that the Appellant call the Ministry' Contractor within one week in the event that he moved.
- The Appellant's Request for Reconsideration ("RFR"), dated November 22, 2023, in which the Appellant wrote that:
 - he still required assistance and was living at a family member's AirBnB when it was unoccupied;
 - he will comply with the Employment and Assistance Act but "will not write some random jobs on a piece of paper just for show";
 - he was meeting the requirements by regularly applying for jobs; and
 - he had applied for every job that has been listed on Workopolis.

The Reconsideration Decision set out, in detail, the Appellant's history with the Ministry' Contractor, after his initial attendance on July 14, 2022, including:

- the lack of any updates from the Ministry Contractor until June 12, 2023;

- a report from the Ministry Contractor, on June 12, 2023, indicating that the Appellant had gotten quite sick after a COVID shot and had been dealing with a rash, which impacted his ability to find work, but which was not considered contagious;
- the Ministry reminded the Appellant, on June 27, 2023, that the medical condition did not exclude him from the requirement to participate in and regularly engage with programs prescribed by the Ministry Contractor. The Appellant confirmed that he would continue his job search and communicate with the Ministry Contractor's case manager;
- the Appellant advised the Ministry on June 28, 2023 that he would be starting a business. The Ministry confirmed with the Appellant that starting a business did not exempt him from engaging with the Ministry Contractor;
- the Ministry Contractor advised, on October 27th, 2023, that the Appellant had not been participating in the Ministry Contractor's program and had not responded to the case manager's attempt;
- the Ministry reminded the Appellant, on October 30th, 2023, that he was required to participate in the Ministry Contractor's program or provide a reasonable explanation of any mitigating circumstance preventing him from doing so;
- the Appellant responded that it was his decision to not attend something that serves no purpose in finding a job and, on November 7th, the Appellant told the Ministry that he was unwilling to comply with what he considered to be an ineffective program; and
- the Ministry Contractors' decision to close the Appellant's case at the end of October, 2023.

In the Appellant's Notice of Appeal, dated December 12, 2023, the Appellant again noted his financial circumstances and indicated that he still required assistance. The Appellant made no further submissions. As a result, there was no documentation before the Ministry or the panel confirming the steps that the Appellant advised he had taken to look for work on his own.

The Ministry made one submission, confirming that it would be relying on the Reconsideration Decision in this appeal.

The panel treats the comments set out in the Notice of Appeal as argument and accepts them as such.

Part F – Reasons for Panel Decision*Issue on Appeal*

The issue in this appeal is whether the Ministry was reasonable in determining that the Appellant was not eligible for income assistance because the Appellant had failed to make reasonable efforts to comply with the conditions of an employment plan entered into on June 24, 2022.

Panel Decision

Section 9(1) of the *Act* authorizes the Ministry to require, as a condition of ongoing eligibility for income assistance, that a recipient enter into an employment plan and comply with the conditions of the plan.

Pursuant to section 9(3) of the *Act*, an employment plan may include a condition that a recipient participate in an employment-related program.

Section 9(4) of the *Act* sets out that the condition of participation in an employment-related program is not met if the recipient:

- fails to make reasonable efforts to participate in the employment-related program; or
- ceases to participate in the employment-related program, except for medical reasons

In this case, the Appellant's employment plan included a condition that the Appellant participate in a program with the Ministry Contractor. The Appellant initially met with the Ministry Contractor, as required, on July 14, 2022.

The Ministry determined that from July 2022 through May 2023, due to a lack of communication with the Ministry Contractor, the Appellant had not complied with the requirements of the employment plan.

After June 2023, the Ministry reminded the Appellant of the requirement of complying with the terms of the employment plan and the Appellant confirmed that he would. Despite that confirmation, the Appellant's non-compliance continued between July 2023 and October 2023 when the Ministry Contractor closed the Appellant's case.

The Appellant gave a number of reasons, including starting his own business, searching for employment independently, and having a medical condition for not complying with the employment plan. On each of those occasions, the Ministry reminded the Appellant of his obligation to cooperate with the Ministry Contractor and, on the occasion after the Ministry gave

this reminder when the Appellant advised the Ministry about the rash, the Appellant confirmed that he would do so

While the Appellant told the Ministry that he had applied for jobs through Workopolis, he did not provide documentation confirming this and, in any event, although commendable, applying for jobs on his own does not relieve the Appellant of the obligation to comply with his employment plan.

By the end of 2023, as confirmed in the Request for Reconsideration, the Appellant had not complied with the employment plan and told the Ministry that that he did not want to attend a program that “serves no purpose in finding a job.”

Finally, the panel notes that section 9(7) of the *Act* sets out that decisions by the Ministry concerning:

- the requirement to enter into an employment plan,
- the amendment, suspension or cancellation of an employment plan, or
- the specific conditions of an employment plan

are “final and conclusive” and not open to review by a court on any ground **or to appeal under section 17 (3) [reconsideration and appeal rights]**. (emphasis added).

As such, the panel finds that it has no jurisdiction to review the Ministry’s decision based on the Appellant’s view of the employment plan having no value.

The panel also finds that the Ministry was reasonable in determining that the Appellant was not eligible for income assistance as a result of failing to comply with the terms and conditions of his employment plan, as required by sections 9(3) and 9(4) of the *Act*, having not made reasonable efforts to participate in the employment-related programs set out in the employment plan and having later advised the Ministry that he was refusing to participate in those programs.

The panel confirms the Reconsideration Decision. The Appellant is not successful in this appeal.

Relevant Legislation*Employment and Assistance Act***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*].

2023-0384

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)

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

Part H – Signatures

Print Name

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2024/January/14

Print Name

Margaret Koren

Signature of Member

Date (Year/Month/Day)

2024/01/22

Print Name

Neena Keram

Signature of Member

Date 2024/01/14