

it is not a defence in proceedings for a violation of section three of the Act for the employer to prove facts described by paragraph (b) of section four of the Act unless he also proves that the employee applied for reinstatement before he offered reinstatement to him.

(4) For the purposes of the Act and these regulations, if an applicant inquires about reinstatement but does not expressly apply for reinstatement he shall be deemed not to have applied for reinstatement.

Application
for assist-
ance.

8. (1) A person who has been offered reinstatement may accept the offer without prejudice to a claim that it does not comply with the requirements of the Act.

(2) Where an applicant, having been offered reinstatement by the employer and having presented himself for employment, is of opinion that the employment offered does not comply with the requirements of the Act, he may apply for assistance to a Reinstatement Officer in person or in writing.

(3) Failure of a person who has applied for assistance under subsection two of this section to perform the duties of the employment during a period when he is being assisted by a Reinstatement Officer shall, for the purposes of section five of the Act, be deemed not to be reasonable cause for terminating the employment.

(4) The fact that an applicant has applied to a Reinstatement Officer for assistance under this section shall, for the purposes of paragraph (b) of section four of the Act, be deemed to be a reasonable excuse for failing to present himself for employment during the period when he is being assisted by the Reinstatement Officer.

Applicant
incapable
of perform-
ing work.

9. (1) If an employer claims that an applicant is physically or mentally incapable of performing work available in the employer's service, a Reinstatement Officer may arrange for a medical examination of the applicant.

Extension
of time
for rein-
statement.

(2) Where, upon discharge from His Majesty's forces, a person is physically or mentally incapable of performing work available in the service of the employer by whom he was employed when accepted for service in His Majesty's forces, he may notify the employer, during the period described by paragraph (a) of section four of the Act, that he intends to apply for reinstatement when he is capable of performing the work, and, where a person has so notified an employer and has, within nine months after discharge in Canada from the service or from hospital treatment following discharge in Canada or within ten months after discharge overseas or from hospital treatment following discharge overseas, made one or more applications for reinstatement it is not a defence in proceedings for a violation of section three of the Act for the employer to prove