

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated November 19, 2012 in which the ministry denied the appellant a guide animal supplement because the animal did not meet the criteria set out in the Employment and Assistance Regulation, section 62.

PART D – Relevant Legislation

Employment and Assistance Regulation, section 62

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision was:

- A note written by the appellant's physician dated July 31, 2012 that reads "The above patient has a past history of anxiety/depression and also chronic back problems."
- A note from the appellant's physician dated April 3, 2010 that reads "The patient seems to think that her dog improves her mood and is therapeutic to her. In light of this I would suggest that she be allowed to keep a dog in her apartment."
- A ten-page undated letter from the appellant in which the appellant provides definitions and explanations of service animals and assistance dogs. The appellant writes that the process of training her Psychiatric Service Dog was therapeutic and her research has shown that it is recommended that the handler be the one who trains the dog. In the appellant's case she has spent three years training her dog and it is able to open doors for her, alerts her that someone is at the door, alerts her to the onset of a panic attack, provides her with a sense of security, distracts her from depression, and assists her in remaining calm. The appellant concludes that she considers her dog as medication since she states she is not able to take any pharmaceutical medication.

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.

At the hearing the ministry told the panel that the appellant had applied for a supplement for her assistance dog and was asked to provide more information about the dog and its certification. The ministry determined that the appellant's dog was not certified under the Guide Animal Act. The ministry added that the field of therapy dogs is relatively new that the dog may provide some comfort and support to the appellant, however the legislation requires that the dog be certified under the Guide Animal Act.

The panel finds:

- The appellant owns a dog that she has trained to help her cope with her medical condition.
- The dog is not certified under the Guide Animal Act.
- The appellant feels that the dog improves her living conditions.

PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the ministry's decision to deny the appellant a guide animal supplement because the animal did not meet the criteria set out in the Employment and Assistance Regulation, section 62.

Employment and Assistance Regulation section 62 reads:

Guide animal supplement

62 The minister may provide a supplement of \$95 for each calendar month to or for a family unit that is eligible for income assistance or hardship assistance for the maintenance of a guide animal if the guide animal is

- (a) certified under the *Guide Animal Act*, and
- (b) used by a person in the family unit.

The argument of the appellant is that although her dog is not certified under the Guide Animal Act, her dog is a service animal and she has trained it to be a Psychiatric Service Dog. The appellant argues that the service the dog provides to her is equally as valuable and useful as any other service animal and therefore the ministry should include her dog in the guide animal criteria.

The argument of the ministry is that the appellant's request does not meet the criteria for a guide animal supplement because the dog is not certified under the Guide Animal Act as required by the legislation.

In order for a person to qualify for the guide animal supplement the legislation requires that the animal meet two conditions. a) It is certified under the Guide Animal Act and, b) it is used by a person in the family unit. In the appellant's case the dog is not certified under the Guide Animal Act so it does not meet the first condition. The dog will be used by a person in the family unit so it meets the second condition.

In coming to its decision the panel considered that the appellant does not dispute that the dog is not certified. The panel also considered that the legislation does not allow the ministry any discretion in guide animal supplement applications. The panel finds that the ministry was reasonable when it found that the appellant did not qualify for the guide animal supplement because her dog is not certified under the Guide Animal Act.

The panel finds that the ministry's decision was a reasonable application of the legislation and therefore confirms the ministry's decision.