

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated January 9, 2015 which found that the appellant did not meet the statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a Person With Disabilities (PWD). The ministry found that the appellant met the age requirement and that he has an impairment that is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

- the appellant has a severe physical or mental impairment;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and
- as a result of these restrictions, the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 2
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 2

PART E – Summary of Facts

The evidence before the ministry at the time of the Reconsideration Decision included:

1. The appellant's PWD Application comprised of:
 - a. the Applicant Information and Self-report ("SR") prepared by the appellant and dated September 25, 2014;
 - b. the Physician Report ("PR") dated September 24, 2014 and prepared by the appellant's general practitioner ("the GP") of five years; and
 - c. the Assessor Report ("AR") dated September 25, 2014 and prepared by a registered nurse ("the RN") who had treated the appellant on one occasion;
2. A psychiatric assessment report regarding the appellant and dated August 29, 2014 by a psychiatrist ("the Psychiatric Assessment"); and
3. The appellant's Request for Reconsideration ("RFR") dated December 23, 2014 which has attached to it two pages of written submissions ("the RFR Submissions").

Diagnoses

In the PR, the appellant is diagnosed by the GP with generalized anxiety disorder with date of onset as 1999 as well as panic attacks with no onset date noted. This diagnosis is shared by the psychiatrist who prepared the Psychiatric Assessment.

In the AR, the RN writes that the appellant experiences very severe anxiety disorder with panic attacks, noting further that he experiences between 5 and 7 panic attacks per day. The RN also refers to the appellant as having a history of agoraphobia but no further information is provided about that condition and it is not referred to by the GP or the psychiatrist.

Physical Impairment

In the RFR submissions, the appellant comments that although the GP does not report a physical impairment, that does not mean that one is not present. However, the appellant does not indicate in the RFR submissions what his physical impairment is. In the SR, the appellant describes his physical reaction to his anxiety disorder and panic attacks but he does not provide details of an impairment that is physical in nature.

In the PR, the GP indicates that with respect to functional skills, the appellant can walk 4 or more blocks and climb 5 or more steps unaided and that he has no limitations lifting or remaining seated. The GP has not diagnosed the appellant with a physical impairment.

In the AR, the RN reports that the appellant lives alone in a basement suite and that he is independent with all aspects of mobility and physical ability. The RN adds the comment that the appellant tells her that with respect to walking indoors and outdoors, he often finds himself prone to becoming housebound and he reports a history of being unable to leave his home for a period of two years in his mid 20's.

In the Psychiatric Assessment, the psychiatrist reports that the appellant describes physical symptoms secondary to his anxiety disorder and panic attacks. Specifically, the appellant reports a constriction of his throat with a feeling of choking as well as feelings of shakiness, palpitations, sweatiness, feeling like he is about to pass out and like he can't breathe, all brought on by panic attacks. The psychiatrist notes that the appellant has undergone physical examinations in the past but no physical cause has been found. The psychiatrist does not diagnose the appellant with a physical impairment in the Psychiatric Assessment.

Mental Impairment

In the RFR submissions, the appellant indicates that he has experienced the symptoms of his mental

impairment since 1999 and that he was at one time unable to leave his residence for a period of two years. He describes “constant, persistent and unrelenting thoughts of self-harm and passive suicide that compose a profile of someone who is severely impaired.” He writes that he is affected by his condition 70+% of each day and that he is mostly unable to leave his house on most days. He describes being able to leave the house three times but for those, there are 10 or more times where he has failed to do so.

In the SR, the appellant writes that his disability intermittently affects his ability to leave his bed and that on most days it cuts short needed grocery shopping. The appellant rarely leaves his home for fear of a panic attack and, though rare, sometimes finds himself having to abandon a shopping cart while grocery shopping for fear of an impending panic attack. He skips meals as he fears he will choke on it and he is occasionally too fatigued to bathe. The appellant writes that getting to sleep is a major effort and that he experiences panic, anxiety, head spins, body quakes and a racing heart. He concludes by writing that on most days he feels it would be easier to “just perish” to make the terror go away.

In the PR, the GP notes that some days the appellant cannot leave his apartment and is unable to concentrate and that some medications may or may not help. The GP indicates that the appellant experiences significant deficits with cognitive and emotional function in the areas of executive, emotional disturbance and attention or sustained concentration.

In the AR, the RN has noted that the appellant’s ability to write, hear and speak are all good albeit with somewhat pressured speech and that his reading is poor due to a seriously reduced ability to concentrate. The RN further indicates the degree to which the appellant’s mental impairment impacts his daily functioning: major impacts are noted on bodily functions (specifically a very serious difficulty with sleep initiation), emotion (specifically anxiety), attention/concentration, motivation and psychotic symptoms (intermittent suicidal ideation is noted). No other impacts on daily functioning are indicated by the RN although she comments that the appellant voices multiple fears and is occasionally so strongly triggered, for example he has suffered from years of choking and is unable to eat. The RN further comments that the appellant has difficulty with self-regulation and is unable to stop excessive motion including jiggling of legs, rocking and bouncing.

In the Psychiatric Assessment, the psychiatrist describes the appellant as appearing agitated and maintaining movement through the interview. At that time, the appellant reported that his panic attacks, while frequent, are being reduced, that he is sleeping well, that his appetite is somewhat down and that he had no suicidal or homicidal ideation. The psychiatrist noted no evidence of psychosis or OCD and that cognitively, the appellant presented as intact and fairly intelligent with good insight.

Daily Living Activities (DLA)

In the PR, the GP indicates that the appellant’s impairment restricts his ability to perform DLA periodically while shopping and continuously in the area of social functioning but not in any other DLA. The GP comments that in respect of the impact on shopping, the appellant’s symptoms are worse during panic attacks and that the impact on social functioning results in difficulty for the appellant going out in public. The GP further comments that a “worker” goes shopping with the appellant to the grocery store.

In the AR, the RN reports on the assistance required by the appellant relating to the impairments that directly restrict his ability to manage his DLA as follows:

- In the area of Personal Care, the appellant is able to independently dress and groom himself and transfer in and out of bed and on and off of a chair. The RN provides no indication as to the impact on bathing, toileting, feeding self or regulating diet but comments that the appellant voices periods of being unable to motivate himself to bathe.
- In the area of Basic Housekeeping, the appellant is independent with laundry and basic housekeeping.
- With Shopping, the appellant is independent with reading prices and labels, making appropriate

choices, paying for purchases and carrying purchases home. For going to and from stores, the RN comments that this is a “massive problem” as it triggers panic attacks quite frequently resulting in groceries being abandoned.

- For tasks related to Meals, the RN has not checked any of the available boxes in the AR but comments that the appellant states that on bad days, he can only manage to take Ensure and that he crawls to the kitchen, twitching and shaking.
- For Paying Rent and Bills, the appellant is independent in all aspects.
- For tasks relating to his medications, the appellant is independent in all aspects including filling and refilling prescriptions, taking medications as directed and safe handling and storage of medications but the RN also indicates that the appellant requires continuous assistance from another person for each of these tasks, commenting that he must take a friend to face the pharmacy.
- The appellant is described as independent getting in and out of a vehicle and using public transit where available.
- The RN provides a final comment, assumedly from the appellant: “There have been days when I just want it to end.”

With respect to social functioning, the RN indicates that the appellant is independent in all listed aspects including making appropriate social decision, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others. The RN provides the additional comment that the appellant has more than adequate social skills (verbally) but often has feelings of being rejected and treated dismissively by others. The appellant is assessed as having good to marginal functioning with his immediate and extended social networks and the RN has underlined “rejected by others” and “major social isolation” in these categories.

In the Psychiatric Assessment, the psychiatrist indicates that the appellant describes relying on a friend taking him out of the house on a regular basis for walks and to go shopping and that this helped reduce his anxiety.

Need for Help

In the PR, the GP did not indicate that the appellant requires an assistive device but has indicated that a worker goes shopping with him to the grocery store.

In the AR, the RN similarly indicates that the appellant receives help from friends and health authority professionals and that he must take a friend to face the pharmacy.

In the Psychiatric Assessment, the psychiatrist writes that it has been arranged for the appellant to see a therapist.

In his Notice of Appeal dated January 19, 2015, the appellant writes that he has suffered with his disorder since 1999 but he is unsure whether it was caused by a motor vehicle accident or if the accident simply brought the disorder to the surface. He continues that on some days he experiences between 15 and 20 panic attacks and that most times on those days he just hopes to die. He writes that on 7 out of 10 occasions, he is unable to get out to do the things he needs to do such as shop, have some semblance of a life and do what a healthy adult should do. The appellant states that he cannot work and can barely make it out of his house, he can't make friends or find a partner, he can't go for a walk or “engage in anything the rest of humanity does with ease.” The appellant describes 15 years of crippling fear, quaking and shaking and nightmares that can affect him for weeks, feeling useless, helpless, hopeless and of being held captive by a disorder that he didn't ask for but nonetheless received.

Evidence At Hearing

The Appellant

The appellant stated that the GP was correct in his assessment as set out in the PR but that because of a lack of contact with him and the failure by the GP to ask him any questions when he completed the PR, it contains insufficient information. The appellant noted that he has now switched doctors. Similarly, he says that he met with the psychiatrist who completed the Psychiatric Assessment for less than 40 minutes over two appointments, with approximately half of that time dedicated to discussing his medications and as such that report is similarly insufficient. With respect to his panic and anxiety, the appellant said that he has trained himself through cognitive behavioral therapy to “ride it out” but that he is generally affected all the time.

In reference to his DLA, the appellant stated that even though he can make decisions about personal activities, care or finances, to have made a decision does not mean he will follow through with it. Similarly, he finds that while he can communicate or interact with others over the phone, similar contact in person is a “no go.” He has social functioning skills but he cannot leave his home to apply them. He says that going to the store is a rare event and that he would prefer to have someone accompany him. He is unable to carry purchases home due to the distance and a lack of comfort with the route he would be required to walk and as such he normally travels by taxi. He is unable and unwilling to use public transit without accompaniment. The appellant described the preparation of meals as “hit or miss.”

In response to questions, the appellant stated that he leaves his home once per week if he is lucky, that his anxiety disorder is a constant 24 hour per day 7 day per week condition and that his panic attacks are intermittent and unpredictable. He says that his anxiety disorder serves as something of a foundation and affects everything he does. He sees a counsellor once each week but requires medication to do so. He does not receive assistance making meals and if he doesn't prepare them, he does not eat. With housework, he is able to do it and uses it as a distraction if he feels a panic attack coming on.

The Registered Nurse

The RN who prepared the AR appeared as a witness at the hearing and as support for the appellant. In response to questions, she stated that since preparing the AR, she has now met with the appellant a total of eight times with three or four of those meetings being at the appellant's home. She has never seen the appellant outside his home without him being accompanied by someone else. While meeting with the appellant, the RN has witnessed him being in a state of high anxiety on four or five occasions.

The RN stated that based on her observations since completing the AR, if she was given the opportunity to revise it she would do so and make a variety of changes given her view that the appellant's mental condition and ability to perform DLA are much worse than she initially assessed. For example, the RN notes that the appellant rarely walks outdoors, using transit is impossible, he has the capacity to make decisions but he is confined by agoraphobia and social phobia and this affects every aspect of his life.

The Ministry

At the hearing, the ministry referred to and relied upon the Reconsideration Decision and commented that it placed greater weight and reliance on the PR than the AR given the relative lack of time that the RN had spent with the appellant prior to completing it. The ministry commented that there was not a lot of information provided by the GP in the PR. Based on the information, the appellant's impairment was found to be moderate in nature and there was not much information as to how much help the appellant needed with his DLA and for how long.

In response to questions, the ministry stated that the Psychiatric Assessment did not appear to carry much weight in the preparation of the Reconsideration Decision as it didn't really address the DLA issues.

Admissibility

Section 22(4) of the *Employment and Assistance Act* (“EAA”) provides the legislative test for the admissibility of evidence at a hearing. Specifically, there are two categories of evidence that may be admitted. The first, which is set out at section 22(4)(a), is information and records that were before the minister when the decision being appealed was made. In this case, that would include the PWD application, the RFR Submissions and the Psychiatric Assessment. The second category, found at section 22(4)(b) is oral or written testimony in support of the information and records referred to in paragraph (a). In other words, for the oral testimony of the parties or the witnesses in this matter to be admitted by the panel at hearing, it must be in support of the PWD application, the RFR Submissions and/or the Psychiatric Assessment. It cannot be “new” evidence that does not corroborate or substantiate the evidence at reconsideration.

The evidence of the appellant was that the PR and the Psychiatric Assessment were correct but incomplete given that he had not provided all of the relevant information to the respective authors. He stated that his anxiety disorder and panic attacks formed a foundation for his life and affected his DLA and that while he can physically perform many DLA, any that involve his leaving his home are rarely accomplished if at all. On review of the RFR Submissions, the panel notes that the appellant describes his disorder as affecting him “70 plus percent of [his] day and that he is mostly unable to leave his house.” He also comments that he has withdrawn from social activities and interactions with others. The appellant’s oral evidence is admitted pursuant to section 22(4)(b) of the *EAA* on the basis that the panel finds that it was in support of the information and records that were before the ministry when the decision being appealed was made.

The RN gave evidence that was much different than that in the AR. For example, she stated that after working with the appellant on additional occasions after preparing the AR, many of the answers she originally provided would be changed if given the opportunity. For example, she stated that walking outdoors was rare for the appellant and using transit was impossible. The panel has determined that the RN’s oral evidence at hearing that she would change the AR and her evidence of the specific DLA that she would change is not admissible. This evidence was not in support of the information and records that were before the minister when the Reconsideration Decision was made. While the panel can appreciate that there may have been changes in the assessment of the appellant, those changes and the opinion of the RN is “new evidence” that does not corroborate or substantiate the evidence at reconsideration and therefore does not meet the test for admissibility as set out in section 22(4)(b) of the *EAA*.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's Reconsideration Decision, which found that the appellant is not eligible for designation as a person with disabilities (PWD), was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry found that the appellant met the age requirement and that he has an impairment that is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

- the appellant has a severe physical or mental impairment;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and,
- as a result of these restrictions, the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

The criteria for being designated as a PWD are set out in Section 2 of the *EAPWDA* as follows:

Persons with disabilities

2 (1) In this section:

"**assistive device**" means a device designed to enable a person to perform a daily living activity that, because of a severe mental or physical impairment, the person is unable to perform;

"**daily living activity**" has the prescribed meaning;

"**prescribed professional**" has the prescribed meaning.

(2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the purposes of this Act if the minister is satisfied that the person has a severe mental or physical impairment that

(a) in the opinion of a medical practitioner is likely to continue for at least 2 years, and

(b) in the opinion of a prescribed professional

(i) directly and significantly restricts the person's ability to perform daily living activities either

(A) continuously, or

(B) periodically for extended periods, and

(ii) as a result of those restrictions, the person requires help to perform those activities.

(3) For the purposes of subsection (2),

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

(4) The minister may rescind a designation under subsection (2).

Section 2(1)(a) of the *EAPWDR* defines DLA for a person who has a severe physical or mental impairment as follows:

Definitions for Act

2 (1) For the purposes of the Act and this regulation, "**daily living activities**" ,

- (a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:
- (i) prepare own meals;
 - (ii) manage personal finances;
 - (iii) shop for personal needs;
 - (iv) use public or personal transportation facilities;
 - (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
 - (vi) move about indoors and outdoors;
 - (vii) perform personal hygiene and self care;
 - (viii) manage personal medication, and
- (b) in relation to a person who has a severe mental impairment, includes the following activities:
- (i) make decisions about personal activities, care or finances;
 - (ii) relate to, communicate or interact with others effectively.

Severity of impairment

Section 2(2)(a) of the *EAPWDA* provides that when addressing the issue of a severe physical or mental impairment in the context of a person applying for a PWD designation, that person must be found to have a severe physical or mental impairment that, in the opinion of a medical practitioner, is likely to continue for at least 2 years.

A diagnosis of a serious medical condition or conditions does not in itself determine PWD eligibility or establish a severe impairment. An "impairment" is a medical condition that results in restrictions to a person's ability to function independently or effectively.

To assess the severity of an impairment one must consider the nature of the impairment and the extent of its impact on daily functioning. In making its determination, the ministry must consider all the relevant evidence, including that of the appellant. However, the legislation is clear that the fundamental basis for the analysis is the evidence from prescribed professionals – in this case, the GP and the RN.

Severity of mental impairment

The appellant takes the position that he has been diagnosed with generalized anxiety disorder, panic attacks and agoraphobia and that these conditions when viewed against their impact on his daily functioning constitute a severe mental impairment.

The ministry takes the position that the evidence that was available at reconsideration does not support a finding that the appellant has a severe mental impairment.

Panel Decision

The evidence indicates that the appellant suffers from anxiety disorder and panic attacks which impact on his cognitive and emotional functioning.

The GP reports deficits in three areas of cognitive and emotional functioning and notes that some medications may or may not help. The RN indicates that the appellant's mental health has major impacts on five areas of cognitive and emotional functioning and highlights sleep disturbance, anxiety and intermitted suicidal ideation. In the Psychiatric Assessment, the psychiatrist notes the appellant to be cognitively intact with reduced panic

attacks, good insight and no suicidal or homicidal ideation.

Section 2(1)(b) of the *EAPWDR* prescribes two DLA that are specific to mental impairment – make decisions about personal activities, care or finances (decision making), and relate to, communicate or interact with others effectively (social functioning).

The professional evidence indicates that the appellant is not significantly restricted with respect to decision making in that, according to the GP, the appellant independently manages the decision making aspects of the DLA of personal self-care as well as management of medications and finances. Further, the RN provides that the appellant is independent with the management of his personal medication (filling/refilling prescriptions/taking as directed/safe handling and storage) subject to having a friend accompany him to the pharmacy, management of personal finances (banking, budgeting, pay rent and bills) and daily shopping (making appropriate choices).

With respect to the social functioning DLA, the GP notes that the appellant is continuously restricted in that he has difficulty going out in public. However, the RN indicates in the AR that the appellant is independent with all aspects of social functioning albeit with marginal functioning in his immediate and extended social networks.

In the Reconsideration Decision, the ministry notes that by his own admission, the appellant's panic attacks are intermittent in nature and, after referring to the PR, AR and Psychiatric Assessment concludes that the appellant's mental impairment is moderate in nature.

Regarding the DLA applicable to either a severe mental or physical impairment, the GP assesses the appellant as independent for all these DLA except for daily shopping, noting that a worker goes shopping with him. The RN assesses the appellant independent for most aspects of these DLA, except for bathing, all aspects of Meals, for which she offers commentary but no specific assessment, and for Medications, where he is assessed as requiring continuous assistance from another person or unable.

Given the evidence that was available at reconsideration concerning the extent to which the appellant is independent in areas where his mental impairment could be expected to impact his daily functioning, the panel concludes that the ministry's determination that there is not sufficient evidence to establish that the appellant has a severe mental impairment under section 2(2) of the *EAPWDA* was reasonable.

Severity of physical impairment

The appellant argues that he suffers from a variety of physical symptoms that are secondary to his anxiety disorder and panic attacks and that these constitute a severe physical impairment.

The ministry takes the position that the appellant has not been diagnosed with a physical disorder or a physical impairment and as such he does not suffer from a severe physical impairment.

Panel Decision

In the PR, the appellant's GP does not diagnose the appellant as suffering from any manner of physical medical condition. The appellant is described as able to walk 4 or more blocks unaided on a flat surface, climb 5 or more steps unaided, and that he has no limitations lifting or remaining seated. For those DLA that are of a physical nature such as personal self-care, meal preparation, basic housework and mobility inside and outside the home, the GP notes that the appellant is independent.

In the AR, the PN notes that the appellant is independent in all aspects of mobility and physical ability. The appellant is further described as independent with the all aspects of daily housekeeping, dressing himself, transfers in and out of bed and on and off of chairs and carrying purchases home from the store.

While the appellant's evidence is that he suffers from physical symptoms secondary to his panic attacks and anxiety disorder, the panel finds that the ministry was reasonable in its determination that the evidence did not support a finding that he suffers from a severe physical impairment as provided by section 2(2) of the *EAPWDA*.

Restrictions in the ability to perform DLA

The appellant's position is that his impairments directly and significantly restrict his ability to perform DLA. Specifically, he argued that at times, he is unable to leave his home and when he is able to do so, his anxiety and panic attacks limits his ability to carry out his DLA.

The ministry's position is that while it would be reasonable given his medical history that he would encounter some restrictions with DLA, it has not been established by the evidence of a prescribed professional that the appellant's ability to perform DLA has been directly and significantly restricted by his physical or mental impairments either continuously or periodically for extended periods as required by section 2(2) of the *EAPWDA*.

Panel Decision

Section 2(2)(b) of the *EAPWDA* requires that a prescribed professional, in this case the GP and the RN, provide an opinion that an applicant's severe impairment directly and significantly restricts his DLA, continuously or periodically for extended periods.

DLA are defined in section 2(1) of the *EAPWDR* and are also listed in the PR and, with additional details, in the AR. Therefore, a prescribed professional completing these forms has the opportunity to indicate which DLA, if any, are significantly restricted by the appellant's impairments, either continuously or periodically for extended periods. Employability is not a listed criterion in the legislation and as such is not a consideration in the determination of whether an applicant's DLA are restricted by a severe impairment.

In the PR, the appellant's GP of 5 years has described him as independent in all tasks of DLA aside from daily shopping and social functioning. For the former, the restriction is periodic in nature with symptoms described as worse during panic attacks. The impact on social functioning is continuous and relates to "difficulty going out in public."

In the AR, the RN has provided evidence of the appellant's independence in the majority of DLA. For example, while in the home the appellant can independently manage basic housekeeping, he can dress and groom himself but finds unspecified periods of being unable to bathe. For DLA relating to meals, the evidence is incomplete but simply refers to the appellant's "bad days" where he is limited in what he can accomplish. There is no evidence to demonstrate how frequently the "bad days" occur relative to good days.

While the evidence demonstrates that the appellant experiences restrictions in some tasks of DLA, it also demonstrates that the appellant independently manages most tasks. Based on the foregoing, the panel finds that the ministry reasonably concluded that the evidence is insufficient to demonstrate that the appellant's DLA are significantly restricted either continuously or periodically for extended periods as provided under section 2(2)(b) of the *EAPWDA*.

Help with DLA

The appellant's position is that that his impairments affect his DLA to the extent that assistance from others is necessary.

The ministry's position is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required.

Panel Decision

Section 2(2)(b)(ii) of the *EAPWDA* requires that, as a result of direct and significant restrictions in the ability to perform DLA, a person requires help to perform those activities. Section 2(3) of the *EAPWDA* provides that a person requires help in relation to a DLA if, in order to perform it, the person requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal. In other words, it is a pre-condition to a person requiring help that there be a finding that a severe impairment directly and significantly restricts a person's ability to manage his or her DLA either continuously or periodically for an extended period.

Given the panel's finding that the ministry reasonably determined that direct and significant restrictions in the appellant's ability to perform DLA have not been established, the panel further finds that the ministry's conclusion that it cannot be determined that the appellant requires help to perform DLA as a result of those restrictions, as defined by section 2(3)(b) of the *EAPWDA*, was reasonable.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's Reconsideration Decision which determined that the appellant was not eligible for PWD designation was a reasonable application of the applicable enactment in the circumstances of the appellant, and therefore confirms the decision.