

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated July 14, 2015, which held that the Appellant is not entitled to reconsideration of the Ministry decision dated April 22, 2015 which denied his application for designation as a Person with Disabilities. The Ministry determined that the Appellant did not deliver his request for reconsideration within the legislated time limit of 20 business days as set out in s. 17 of the Employment and Assistance Act and s. 79 of the Employment and Assistance Regulation.

## PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 17

Employment and Assistance Regulation (EAR) Section 79

## PART E – Summary of Facts

Information before the Ministry included:

- The Ministry's Persons with Disabilities (PWD) Designation Decision Summary, dated April 22, 2015.
- The Ministry's letter to the Appellant advising him of their decision, dated April 22, 2015.
- The Appellant's Persons with Disabilities Designation Application, date stamped by the Ministry March 11, 2015.
- The Appellant's Request for Reconsideration dated June 17, 2015, with the section "Date requestor must submit for by" completed with the date May 28, 2015.

The Appellant included two letters with his Notice of Appeal to the Tribunal dated July 23, 2015 and August 11, 2015, which state that he does not dispute that he might have been a bit late but it was due to an honest mistake on his part, that he thought that "contact EA" meant to get in touch with his Employment Agent at his employment service provider's office, not the Ministry, that he does need medical devices for assistance and that he has been notified that he is designated as a person with persistent multiple barriers to employment (PPMB). He included a form completed by his physician related to his application for PPMB designation.

The Ministry, in the reconsideration decision, stated that the Appellant was notified of the decision to deny his application for designation as a PWD on April 22, 2015. The deadline to submit a request for reconsideration was May 21, 2015, though it would have been accepted by May 28<sup>th</sup>, the date recorded by the Ministry on the Request for Reconsideration and the Appellant submitted it on June 17, 2015, which exceeded the time limit permitted by the legislation. As a result, the Ministry did not conduct a reconsideration of the Appellant's denial of PWD designation.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision which held that the Appellant is not entitled to reconsideration of the Ministry decision dated April 22, 2015 which denied his application for designation as a Person with Disabilities. The Ministry determined that the Appellant did not deliver his request for reconsideration within the legislated time limit of 20 business days as set out in s. 17 of the Employment and Assistance Act and s. 79 of the Employment and Assistance Regulation.

### Legislation

EAA

### Reconsideration and appeal rights

- 17** (1) Subject to section 18, a person may request the minister to reconsider any of the following decisions made under this Act:
- (a) a decision that results in a refusal to provide income assistance, hardship assistance or a supplement to or for someone in the person's family unit;
  - (b) a decision that results in a discontinuance of income assistance or a supplement provided to or for someone in the person's family unit;
  - (c) a decision that results in a reduction of income assistance or a supplement provided to or for someone in the person's family unit;
  - (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
    - (i) the maximum amount of the supplement under the regulations, and
    - (ii) the cost of the least expensive and appropriate manner of providing the supplement;
  - (e) a decision respecting the conditions of an employment plan under section 9 [*employment plan*].
- (2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation.
- (3) Subject to a regulation under subsection (5) and to sections 9 (7) [*employment plan*], 18 and 27 (2) [*overpayments*], a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1) (a) to (d) may appeal the decision that is the outcome of the request to the tribunal.
- (4) A right of appeal given under subsection (3) is subject to the time limits and other requirements set out in this Act and the regulations.
- (5) The Lieutenant Governor in Council may designate by regulation
- (a) categories of supplements that are not appealable to the tribunal, and
  - (b) circumstances in which a decision to refuse to provide income assistance, hardship assistance or a supplement is not appealable to the tribunal.

EAR

### How a request to reconsider a decision is made

- 79** (1) A person who wishes the minister to reconsider a decision referred to in section 17 (1) of the Act must deliver a request for reconsideration in the form specified by the minister to the ministry office where the

person is applying for or receiving assistance.

(2) A request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in section 17 (1) of the Act and may be delivered by

- (a) leaving it with an employee in the ministry office, or
- (b) being received through the mail at that office.

The Appellant's position is that he was just a few days late and he made a mistake, taking the letters "EA" to mean Employment Agent rather than the Employment and Assistance office.

The Ministry's position is that the decision to deny the Appellant's application for designation as a PWD is not subject to reconsideration because the time limit for filing his request for reconsideration has expired.

The Panel notes that the Appellant does not dispute that his Request for Reconsideration was late. He stated that it was late "by only a couple of days". In fact, the Panel notes from the date on the Request for Reconsideration that it was submitted 14 business days after the "Date requestor must submit for by" recorded on the Request for Reconsideration form provided to the Appellant by the Ministry. With respect to the Appellant's statement that he confused the meaning of the initials "EA" in the April 22, 2015 letter advising him of the Ministry's decision and his right to request reconsideration, the Panel notes that the term "EA" is defined in full in the letter as "Employment and Assistance (EA) office".

The Panel finds the Ministry's decision that the Appellant did not deliver his Request for Reconsideration within the Legislated time set out in s.17 EAA & and s.79 EAR was reasonably supported by the evidence and confirms the decision.