

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated 11 May 2017 that denied the appellant designation as a person with disabilities (PWD). The ministry determined that the appellant did not meet all of the required criteria for PWD designation set out in section 2 of the *Employment and Assistance for Persons with Disabilities Act*, section 2. Specifically, the ministry determined that the information provided did not establish that the appellant has a severe mental or physical impairment that in the opinion of a prescribed professional

(i) directly and significantly restricts his ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and,

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

The ministry determined that the appellant satisfied the other 2 criteria: he has reached 18 years of age and his impairment in the opinion of a medical practitioner is likely to continue for at least 2 years.

The ministry also found that it has not been demonstrated that the appellant is of one of the prescribed classes of persons who may be eligible for PWD designation on the alternative grounds set out in section 2.1 of the *Employment and Assistance for Persons with Disabilities Regulation*. As there was no information or argument provided by the appellant regarding alternative grounds for designation, the panel considers that this matter not to be at issue in this appeal.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) – section 2
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – sections 2 and 2.1.

PART E – Summary of Facts

With the consent of the appellant, a ministry worker attended the hearing as an observer.

With the consent of both parties, a member of the Tribunal staff attended the hearing as an observer.

The evidence before the ministry at reconsideration consisted of the following:

1. The appellant's PWD Designation Application dated 22 November 2016. The Application contained:
 - A Self Report (SR).
 - A Medical Report (MR) dated 16 November 2016, completed by a general practitioner (GP) who has known the appellant for 6 months and seen him 2 – 10 times during that period. (The GP writes that the appellant has a family doctor, while the GP works in a walk-in clinic providing ongoing care for the appellant's post concussion syndrome.)
 - An Assessor Report (AR) dated 16 November 2016, completed by the same GP.
2. The appellant's Request for Reconsideration dated 18 April 2017, requesting an extension. Subsequently the appellant submitted reasons for his request (reconsideration submission) dated 09 May 2017, attached to which is a letter of support from a registered psychologist (RP) dated 24 April 2017, with an accompanying 14 page "Psychoeducational – Vocational Assessment" dated 21 April 2017 prepared by the RP and a psychometrist and a shorter 5 page Summary Report, along with a "Strong Interest Inventory® Profile with Skills Confidence Inventory Profile," dated 11 April 2017.

In the MR, the GP diagnoses the appellant with concussion (onset November 2015) and post concussion syndrome (onset November 2015).

The panel will first summarize the evidence from the MR and the AR as it relates to the PWD criteria at issue in this appeal.

Severity/health history

Physical impairment

MR:

Regarding functional skills, the GP reports that the appellant can walk 4+ blocks unaided, can climb 5+ steps unaided, his limitations in lifting are unknown and there are no limitations to remaining seated.

The GP indicates that the appellant has not been prescribed any medication and/or treatments that interfere with his ability to perform DLA. He also indicates that the appellant does not require any prostheses or aids to compensate for his impairment.

AR:

The GP assesses the appellant as independent for all aspects of mobility and physical ability: walking indoors, walking outdoors, climbing stairs, standing, and lifting and carrying and holding

Mental impairment

MR:

Under Health History, the GP writes:

“Patient has poor concentration and recurrent severe headaches from post-concussion syndrome.”

Asked to describe the appellant’s impairment that impacts his ability to manage DLA, the GP writes, “Takes longer to do planning/execution for activities [due to] cognition slowing. Worsening symptoms with prolonged concentration.”

The GP indicates that the appellant has difficulties with communication, with a cognitive cause, commenting: “Some concentration difficulties and cognitive slowing.”

The GP indicates that the appellant has significant deficits with cognitive and emotional function in the areas of executive, memory and other (“worsening symptoms with sustained concentration”)

AR:

The GP assesses the appellant's ability to communicate as good for all listed aspects: speaking, reading, writing, and hearing.

Regarding cognitive and emotional functioning, the GP indicates that the appellant's mental impairment or brain injury has the following impacts in the specified areas:

- Major impact: none.
- Moderate impact: attention/concentration, executive and memory.
- Minimal impact: bodily functions, consciousness, and motor activity.
- No impact: emotion, impulse control, insight and judgment, motivation, language, psychotic symptoms, other neuropsychological problems, and other emotional or mental problems.

Ability to perform DLA

AR:

The GP assesses the assistance as independent for all listed tasks for the DLA of personal care, basic housekeeping, shopping, meals, pay rent and bills, medications, and transportation.

With respect to social functioning, the GP assesses the appellant as independent for all listed areas: making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others.

The GP assesses the impact of the appellant's mental impairment on his immediate social and extended social networks as good functioning.

Help provided/required

PR:

The GP indicates that the appellant does not require any prostheses or aids to compensate for his impairment.

AR:

The GP does not indicate whether assistance is provided by other people.

Regarding assistive devices, the GP does not indicate that the appellant routinely uses any of the listed devices to compensate for his impairment.

Self report

In the SR, the appellant writes that he has been suffering from a concussion caused by a fall in November 2015. He has severe headaches. He is now under regular medication. This removes or reduces the headaches, but if he sometimes forgets to take the medicine, the headaches recur. One of the medications is a tranquilizer, making him feel drowsy during the day. As a result, he cannot concentrate to do any work for more than two or three hours. For anything that involves physical labour, he gets tired and exhausted, with an accompanying headache.

In describing how his disability affects his life, the appellant explains that he completed his MA at a local university in April 2016. During the last semester, he got seriously sick and sought help from the university. The university employed an academic editor for him and he was able to complete his program with the help of the university's disability centre. The university also arranged for counseling sessions for him. Since leaving university he is physically and mentally fatigued and unable to do any work that needs labour and/or attention.

The appellant goes on to explain that, as he is unable to take any kind of mental or physical pressure, he did not look for a job after completing his MA. As a result he has no money in his bank and has been using his credit card and loans from friends. To recover from his illness he needs to lead a stress-free life with scope to take rest and medication. His memory is now very dull, noticeably affecting his everyday life. He mumbles when he speaks and takes a remarkably longer time than usual to prepare an academic or non-academic draft, such as this Self Report, which took 2 hours. As he does not have a job, he is unable to sponsor his only son, who lives in another country, to join him. He concludes by writing that he cannot cope with the adversities described above and that he is unable to take care of himself.

Request for Reconsideration

In a submission accompanying his Request for Reconsideration, the appellant writes:

"I have been experiencing headache following the injury that occurred in [November 2015.] In spite of taking regular medication and physiotherapy my situation has been remaining the same. As I take medicine to keep my headaches in a tolerable state, I feel a kind of dizziness and exhaustion. It makes me unable to do anything that involves physical and/or mental involvement. A neurologist pushed two steroid injections on my head and neck: one in April 2016 and the other one in February 2017. The next one is scheduled for July 2017. I might need to depend on the steroid injections for the rest of my life I guess. My doctor and the neurologist did not give me any hope that I would recover my injury. I started working in a grocery store: four hours a week, but presently I reduced it to 3 hours a week as I have headache and severe fatigue. It is really difficult for me to explain the hardship I am facing in leading my everyday life. Even I am experiencing severe headache and tiredness composing this letter."

Psychoeducational – Vocational Assessment

The above assessment, and its Summary Report, contain the following caveat:

“The information contained in this report was collected in order to assess cognitive/emotional functioning and career interests: it is not intended or valid for use in any other context (e.g. medical-legal, neuropsychological etc.)”

RP’s letter

In her letter, the RP writes that the appellant has a documented history of post-concussive syndrome dating back to a fall in November 2015. His symptoms have remained significant and unremitting since that time, supporting a DSM 5 diagnosis of Neurocognitive Disorder due to Traumatic Brain Injury. This disorder involves significant decline from the previous level of functioning in several cognitive domains (e.g. complex attention, executive functioning, learning and memory, language, perceptual motor, or social cognition) and is currently supported by standardized testing, self-report, and the findings of medical professionals. The appellant’s ongoing symptoms have caused significant impairment in his cognitive, emotional, social, and occupational functioning, to the point that he is been unable to maintain employment, social relationships and many activities of daily living.

Drawing from her Psychoeducational – Vocational Assessment, the RP writes that as part of his psychological assessment, the appellant completed standardized measures of intelligence, attention, memory, and academic achievement. In comparison to others his age, he demonstrated significant variability in his scores on tests of verbal comprehension and perceptual reasoning (borderline to high average). He also exhibited considerable variability in his attention and concentration, with scores ranging from the borderline to average range. His processing speed was markedly impaired and measured in the 4th percentile. Auditory memory was measured at the 6th percentile, while visual memory was measured at the 15th percentile. His immediate memory for auditory and visual information was significantly impaired and measured at the 5th percentile. His delayed memory for the same auditory and visual information was also poor and measured at the 10th percentile. His performance on the sentence comprehension test was measured at the 10th percentile, while single word reading was measured at the 25th percentile. Overall these results indicate that at a minimum, 85-95 percent of same aged peers would outscore the appellant on these measures.

The RP continues by writing that these test scores are also in stark contrast to his expected level of performance (high average or greater; at or above the 80th percentile) based on his history of significant educational and occupational achievement as an adult. These psychological assessment results support a significant impact on his ability to rapidly process information, recall auditory and visual information, use fluid reasoning, and attend to stimuli in his environment. In practical terms, the appellant experiences difficulties explaining things to others and recalling the correct words to use. He struggles to maintain focus when there are distractions around him and is no longer able to complete two or more tasks simultaneously. He experiences difficulty recalling information he has read or heard from others and frequently forgets important information and the location of personal possessions. He is unable to sustain any focus beyond 30 minutes and he cannot process information at the speed it is typically presented to him. He needs extra time to solve problems and produce spoken or written output. He is unable to engage in any mentally demanding tasks beyond a brief period of time, as doing so triggers severe and debilitating headaches.

The RP adds that in addition to his significant cognitive difficulties, the appellant frequently has severe head and neck pain, limiting his physical functioning and ability to engage in day-to-day activities.

The RP concludes by writing that the appellant's symptoms have also had a significant and detrimental impact on his mental health. He is currently experiencing significant symptoms of depression and anxiety, including feelings of worthlessness and hopelessness, fatigue, sleep disturbance, rumination, worry about negative judgment by others, worry about saying or doing the wrong thing, worry about making mistakes, worry about the injury, loss of confidence, and shame.

Notice of Appeal

The appellant's Notice of Appeal is dated 18 May 2017. Under Reasons, the appellant writes:
"My real situation might not have been reflected in the papers I submitted. In my everyday life I have been experiencing a number of hardships."

The Hearing

At the hearing, the appellant reviewed his educational, employment and medical situations since his concussion in 2015, much along the lines set out in his SR and reconsideration submission. In terms of his medical situation, he stated that neither is GP nor his neurologist was able to give him a firm prognosis as to when or if his condition might improve. He explained that the steroid injections in his head make him feel much better for a few months and that his neurologist had said that he can tolerate these twice a year – his next one is scheduled for August 2017. Meanwhile, he still gets bad headaches with physical exertion, particularly bending, or concentrating on something for too long. His GP had recently suggested that he could take one more pill of his headache medication daily, but he has opted not to as there is a trade-off between relief from headaches and not being able to function because of the drowsiness brought on by the medication.

He explained that he used to earn money as a journalist, until recently writing a column for a mass circulation newspaper in his home country. He is not able to do this anymore, though he still writes a column, on an unpaid basis, for a paper published in his native language in another province. However, because of his difficulty concentrating, it takes him a week to write the column.

The appellant explained that he often gets confused and as a result seems to have to cope with different difficult situations every day. For instance, on one day he became confused with bus numbers and took the wrong bus, ending up in an unfamiliar area of town and having to ask a bystander for directions. On another day he left his bag on the bus. He lives in shared accommodation and has upset the other renters because he is confused as to which box to place non-food garbage. Sometimes he needs help to avoid getting confused – for example, taking the bus to the hearing site, while he had looked up its location on the Internet, he kept in contact with his cousin by phone so that the latter could advise him as to when to get off the bus.

The appellant stated that he continues to work with WorkBC in compliance with his employment plan obligations. It was through a WorkBC contractor that he was referred to the RP who conducted the Psychoeducational – Vocational Assessment. This assessment involved 4

sessions with the RP and her assistant, which he stated lasted 4 hours, 4 hours, 2 hours, and 1 hour. During those sessions, he met with the RP for a total of about 5 hours. He has not had any contact with the RP since these sessions.

The ministry stood by its position at reconsideration.

Admissibility of additional information

The panel finds the information provided by the appellant in his testimony at the hearing is in support of the information and records before the ministry at reconsideration, as it tends to corroborate the information provided by the appellant in his SR and reconsideration submission and by the RP in his letter of support. The panel therefore admits the appellant's testimony as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision that determined that the appellant did not meet three of the five statutory requirements of Section 2 of the EAPWDA for designation as a person with disabilities (PWD) is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant. The ministry found that the appellant met the age requirement and that, in the opinion of a medical practitioner, his impairment 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 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 following section of the *EAPWDA* applies to this appeal:

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 is in a prescribed class of persons or 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 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.

The following sections of the *EAPWDR* applies to this appeal:

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.

(2) For the purposes of the Act, "**prescribed professional**" means a person who is

(a) authorized under an enactment to practise the profession of

- (i) medical practitioner,
- (ii) registered psychologist,
- (iii) registered nurse or registered psychiatric nurse,
- (iv) occupational therapist,
- (v) physical therapist,
- (vi) social worker,
- (vii) chiropractor, or
- (viii) nurse practitioner, or

(b) acting in the course of the person's employment as a school psychologist by

- (i) an authority, as that term is defined in section 1 (1) of the *Independent School Act*, or
- (ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the *School Act*,

if qualifications in psychology are a condition of such employment.

Weight of evidence

In the reconsideration decision, the ministry noted that while the additional information provided from the RP is helpful in understanding the cognitive changes that the appellant has experienced since his accident, when determining eligibility for PWD designation the ministry does not consider the impact of a medical condition on employability or vocational abilities. In addition, although it is noted that this assessment required 4 appointments to complete, it is not clear if the appellant has worked with the RP outside of this assessment or how well she knows him. As the nature and extent of his relationship with the RP has not been established, the ministry stated that it would rely more heavily on the assessments provided by the GP in the PWD application.

The panel notes that employability is not a criterion for PWD designation. Under section 2 of the EAPWDR, the minister may designate a person as PWD if the minister is satisfied that the person has a severe mental or physical impairment that ... in the opinion of a prescribed professional directly and significantly restricts the person's to perform DLA either continuously or periodically for extended periods, and as a result of those restrictions, the person requires help to perform those activities. Under the legislation, employability or vocational ability is not one of the prescribed DLA. As the appellant testified at the hearing that his contact with the RP was limited to providing information for the preparation of the Psychoeducational – Vocational Assessment and subsequent vocational counseling, and considering that the Assessment contains a caveat that the information contained in the report is not intended or valid for use in any other context, including medical-legal, the panel finds the ministry was reasonable in his determination to rely more heavily on the assessments provided by the GP in the PWD application.

Severity of impairment

General considerations

The legislation is clear that the determination of severity of impairment is at the discretion of the minister, taking into account all of the evidence. The legislation requires that for PWD designation, the minister must be “satisfied” that the person has a severe mental or physical impairment.

For the minister to be “satisfied” that the person’s impairment is severe, the panel considers it reasonable for the ministry to expect that the information provided by the independent and professional medical practitioner and the prescribed professional permits the ministry to form a clear picture of the nature and extent of the impacts of the person's medical conditions on daily functioning. It is therefore reasonable for the ministry to expect that the MR and the AR include explanations, descriptions or examples in the spaces provided.

Physical impairment

In the reconsideration decision, the ministry was not satisfied that the information provided establishes a severe physical impairment. In reaching this conclusion, the ministry noted that the diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a severe impairment. To assess the severity of impairment the ministry must consider the nature of the impairment and the extent of its impact on daily functioning. Considering the focus of the legislation on restrictions and help required, the panel considers this a reasonable approach for the ministry to take when analyzing the information provided regarding severity of impairment.

Consistent with this approach, the ministry reviewed the appellant’s basic physical functional skills reported by the GP in the MR (able to walk 5+ blocks unaided, etc.) and the GP’s assessments of his mobility and physical ability as reported in the AR (independent for walking, climbing stairs, etc.). The ministry also noted that the GP indicated that the appellant does not require any prostheses or aids to compensate for his impairment.

The ministry also noted that the RP stated that the appellant frequently has severe head and neck pain that limits his physical functioning. However no information has been provided to explain how often he experiences headaches and how long they last and in the self-report the appellant acknowledges getting some relief with the medication he takes.

Given the GP’s assessments of the appellant's basic physical functioning and mobility and physical ability, as well as the reported degree of independence in managing all other DLA requiring physical effort, the panel finds that the ministry was reasonable in determining that severe physical impairment has not been established

Mental impairment

In the reconsideration decision, the ministry noted that the GP had diagnosed the appellant with post-concussive syndrome. The ministry then followed the same approach of reviewing reported impacts of his diagnosed condition on daily functioning

The ministry noted that in the MR the GP indicated that the appellant has difficulties with communication due to cognitive issues, writing “Some concentration difficulties and cognitive slowing.” In addition, the GP indicated that the appellant has significant deficits with cognitive and emotional functioning in the areas of memory, executive, and other – “worsening symptoms with sustained concentration.” The ministry noted, however, that in the AR the GP describes the impacts

of the appellant's cognitive and emotional functioning on daily functioning as only moderate, minimal or having no impact to at all, and concluded that this description does not reflect a severe mental impairment. The ministry also noted that in the AR the GP indicated that the appellant does not require any support/supervision in any area of social functioning and describes his functioning with both immediate and extended social networks as "good."

The ministry also reviewed the RP's letter submitted at reconsideration, in which she provides a diagnosis of Neurocognitive Disorder due to Traumatic Brain Injury and described the decline of his cognitive functioning. While the ministry acknowledged that the appellant has significant challenges with memory, executive and concentration, it noted that no information has been provided to describe how these deficits impact the appellant's daily functioning, making it difficult to determine the severity of his impairment. In addition, while the RP indicates that the appellant is experiencing symptoms of depression and anxiety, no description is provided of how these symptoms affect his daily functioning. The ministry concluded that, based on the RP's assessments, the presence of severe mental impairment has not been established.

The panel notes that, at the hearing, the appellant described how he experiences situations that on a daily basis are confusing to him. He also described limits to his ability to concentrate on a particular task. His description of these difficulties corroborates the narrative provided by the GP in the MR: "Takes longer to do planning/execution for activities [due to] cognition slowing. Worsening symptoms with prolonged concentration," and by the RP in her letter that the appellant struggles to maintain focus when there are distractions around him and that he is unable to sustain any focus beyond 30 minutes and he cannot process information at the speed it is typically presented to him. However, these narratives present only a general overview and do not provide a clear picture of how his mental impairment affects such everyday activities as personal self-care, shopping, meal planning and preparation, taking medications, using transportation or interacting with others. Without detailed descriptions or examples from the GP or the RP in this respect, the panel considers it reasonable that the ministry would find it difficult to determine that a severe mental impairment has been established.

Taking into account that the diagnosis of serious medical condition or the identification of significant cognitive and emotional deficits do not in themselves determine PWD eligibility or severe mental impairment, and considering that the GP has not identified any major impacts on the appellant's post concussive syndrome on daily functioning and that neither the GP nor the RP have provided a clear picture of how his mental impairment effects daily functioning, the panel finds the ministry was reasonable in determining that a severe mental impairment has not been established.

Direct and significant restrictions in the ability to perform DLA

According to the legislation, the direct and significant restriction in the ability to perform DLA must be a result of a severe impairment. The legislation – section 2(2)(b)(i) of the EAPWDA – requires the minister to assess direct and significant restrictions of DLA, either continuously or periodically for extended periods, in consideration of the opinion of a prescribed professional, in this case the appellant's GP or the RP. And for the minister to be "satisfied," it is reasonable for the ministry to expect that a prescribed professional provides a clear picture of the degree to which the ability to perform DLA is restricted in order for the ministry to determine whether the restrictions are "significant."

In the reconsideration decision, the ministry noted that the GP had indicated in the MR that the appellant has not been prescribed medications and/or treatments that interfere with his ability to manage DLA. The ministry also noted the GP's narrative referred to above under severity of mental impairment that the appellant "takes longer to do planning/execution for activities [due to] cognition

slowing. Worsening symptoms with prolonged concentration,” remarking that the GP had not indicated which activities take significantly longer to complete or how much longer than normal it takes to complete them.

The ministry also reviewed the GP's assessments in the AR of help required to manage DLA. The GP assessed the appellant as independent for all aspects of the DLA of moving about indoors and outdoors, all tasks of the other DLA requiring physical effort (personal care, basic housekeeping, etc.) and all aspects of the social functioning DLA (make decisions about personal activities, care or finances; and relate to, communicate or interact with others effectively).

The ministry also referred to the RP's letter, writing: “Although [the RP] indicates that you [the appellant] have been unable to maintain ‘any activities of daily living,’ she does describe the assistance you require to perform these activities.” On review of the RP's letter, the panel can find no mention of any assistance required. The panel is of the view that there is a typographical omission in the quoted sentence and it should read, “... she does **not** describe the assistance you require...” This interpretation is consistent with the ministry's conclusion that this assessment by the RP does not satisfy the ministry that the appellant is significantly restricted from performing DLA continuously or periodically for extended periods, as required by legislation.

Given that the GP has assessed the appellant as independent in all aspects or tasks of all DLA, the panel finds that the ministry was reasonable in determining that the information provided does not establish that this criterion has been met.

Help with DLA

In the reconsideration decision, the ministry held that, as it has not been established that DLA are significantly restricted either continuously or periodically for extended periods, it cannot be determined that significant help is required.

Section 2(2)(b)(ii) of the EAPWDA requires that, as a result of being directly and significantly restricted in the ability to perform DLA either continuously or periodically for extended periods, a person must also require help to perform those activities. That is, the establishment of direct and significant restrictions under section 2(2)(b)(i) is a precondition of meeting the need for help criterion. Help is defined in subsection (3) as the requirement for an assistive device, the significant help or supervision of another person, or the services of an assistance animal in order to perform a DLA.

The panel notes that neither of the GP in the MR or the AR, nor the RP in her letter at reconsideration, provides any assessment that the appellant requires help in managing his DLA. Since the ministry reasonably determined that direct and significant restrictions in the appellant's ability to perform DLA have not been established, the panel finds that the ministry reasonably concluded that under section 2(2)(b)(ii) of the EAPWDA it cannot be determined that the appellant requires help to perform DLA.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for PWD designation, was reasonably supported by the evidence. The panel therefore confirms the ministry's decision. The appellant is thus not successful on appeal.