

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 28 April 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 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 physical or mental impairment that in the opinion of a prescribed professional,

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

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

The ministry determined that the appellant satisfied the other 2 criteria: she has reached 18 years of age; and her 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

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

1. The appellant's PWD Designation Application dated 12 December 2016. The Application contained:
 - A Medical Report (MR) dated 08 December 2016 completed by a general practitioner (GP) who has known the appellant for < 2 years and seen her 2-10 times in the past 12 months.
 - An Assessor Report (AR) dated 08 December 2016, completed by the same GP.
 - A Self Report (SR) completed by the appellant.
2. The appellant's Request for Reconsideration dated 27 April 2017, to which is attached 4 letters/consult reports (see below).

In the MR, the GP diagnoses the medical conditions related to the appellant's impairment as multiple cardiac abnormalities, including hypoplastic left ventricle, total anomalous pulmonary venous returns, etc., and esophagitis.

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 of impairment

General

MR:

Under Health History, the GP writes, "The patient has markedly decreased exercise (work) capacity due to her cardiac disease. This is coupled with depressive symptoms and various G.I. symptoms and has resulted in markedly disrupted functioning and has led to social isolation."

Under Additional Comments, the GP writes, "The patient has a long history of cardiac disease that has required multiple interventions. Furthermore, she suffers on a daily basis with various G.I. symptoms including vomiting most of her food intake. This has resulted in considerable loss of energy. This coupled with her problems causes significant disability."

The GP indicates that the appellant has not been prescribed any medication and/or treatments that interfere with her ability to perform DLA, and that she does not require any prostheses or aids for her impairment

AR:

The GP describes the appellant's impairment as: "Patient has markedly reduced exercise tolerance and significant emotional disturbance due to her illnesses."

Under Additional Information, the GP repeats the same comments as under Additional Comments in the MR.

Physical impairment

MR:

The GP indicates that the appellant can walk 1 to 2 blocks unaided on a flat surface, can climb 5+ steps unaided, and is limited to lifting 5 to 15 lbs. The GP does not indicate how long the appellant can remain seated.

AR:

As to mobility and physical ability, the appellant is assessed as independent for walking indoors, walking outdoors and standing; requiring periodic assistance from another person for climbing stairs; and requiring continuous assistance from another person or unable for lifting and carrying and holding.

Severity of mental impairment

MR:

The GP indicates that the appellant has no difficulties with communications.

The GP reports that the appellant has significant deficits with cognitive and emotional function in the areas of executive, emotional disturbance, and motivation. The GP comments, "Patient's illness (chronic) has resulted in significant depression symptoms."

AR:

The GP indicates that the appellant's ability to communicate is good for speaking, reading, writing, and hearing.

The GP assesses the degree to which the appellant's mental impairment restricts or impacts her functioning in the following areas as:

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

Ability to perform DLA

AR:

The GP provides the following assessments of the assistance the appellant requires in performing DLA (the GP's comments in parenthesis):

- Personal care – independent for dressing, grooming, bathing, toileting, feeding self, transfers in/out of bed, and transfers on/off chair; continuous assistance from another person or unable for regulating diet.
- Basic housekeeping – continuous assistance from another person or unable for laundry and basic housekeeping.
- Shopping – continuous assistance from another person or unable for going to and from stores and carrying purchases home; independent for reading prices and labels, making appropriate choices, and paying for purchases.
- Meals – continuous assistance from another person or unable for all tasks: meal planning, food preparation, cooking, and safe storage of food.
- Pay rent and bills – continuous assistance from another person or unable for all tasks: banking, budgeting, and paying rent and bills (patient lacks motivation & needs mother's help).
- Medications – continuous assistance from another person or unable for filling and refilling prescriptions; independent for taking as directed and safe handling and storage.
- Transportation – independent for all tasks: getting in and out of the vehicle, using public transit, and using transit schedules and arranging transportation.

As to the support/supervision required for social functioning, the GP assesses the appellant as independent for making appropriate social decisions, interacting appropriately with others, and dealing appropriately with unexpected demands; and requiring periodic support/supervision for developing and maintaining relationships and securing assistance from others.

The GP assesses the appellant's relationship with her immediate social network as good functioning and with her extended social networks as very disrupted functioning (major social isolation).

Regarding the support/supervision indicated above, the GP notes, "The patient's family members often accompany her when travelling out of the house to help her cope with any issues."

Help required

MR:

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

AR:

The GP indicates that the help required for the appellant's DLA is provided by family.

The GP does not indicate that the appellant requires any of the listed equipment or devices to compensate for her impairment and indicates that she does not have an assistance animal.

The GP describes the type of services provided by his office as coping strategies and symptom relief.

Self Report

In the SR, the appellant describes her disability as being diagnosed at birth with total anomalous pulmonary venous return, ventricular septal defect, common atrium, hypoplastic left ventricular, RV dominance, and hypoplastic aortic arch. She writes that she is not 100% sure what all these mean, but after talking to her specialist and doing some online research she has come to the following conclusion: hypoplastic left heart syndrome is a name for heart disease in which the left side of the heart is critically underdeveloped and therefore the left side of the heart can't effectively pump blood, so the right side must pump blood to the body. She writes that as a child she survived as a result of surgery and is still having to deal with complications.

In describing how her disability affects her life, the appellant writes that as she transitions from being a teenager to an adult, she has become more aware of the complications she has to deal with. When she was younger she would easily become tired and therefore she was not able to participate in any PE classes or do any sports. She still had to go through some small surgeries and ended up skipping some classes as a result. Currently she is living with friends, but she would like to pay her own expenses for schooling, food, clothing, phone, etc. In order to get some experience for some of the university courses she is interested in, she tried to get a job. She tried her best but was fired after 2 weeks because she would not handle the manual labour of lifting heavy objects on a daily basis, as her disability causes her to become easily tired from any type of exercise. She became sick after that and ended up with a fever for a couple of days. After that she tried for an office job where all she had to do was input information on computers and occasionally carry some light boxes. Her employers were aware of her disability when they hired

her, but one day she had to call in sick because she was not feeling well and they told her that she was fired. She feels that her lack of ability to perform simple everyday tasks got her fired. She gets stressed because she wants to work and wants to study but she cannot get a job or the experience to apply for a job and pay for her education

Request for Reconsideration

In her Request for Reconsideration, the appellant writes that she is attaching more details about her disability that impede her from performing daily basic tasks due to lack of nutrient intake and side effects from medication. Attached are the following:

1. A "To whom it may concern" letter dated 27 April 2017 from the GP, who writes:
"This is in support of the above mentioned patient's appeal. The appellant has a complex combination of illness (heart disease and esophagitis) that result in her disability. Her heart disease markedly reduces her exercise capacity to the point of which it becomes difficult for her to perform even extended activities of daily living. Furthermore, her esophagitis causes frequent (daily) symptoms that affect her both physically and emotionally. It also results in decreased nutrition and affects (decreases) her energy levels. These problems continue to markedly affect her despite optimum treatment. It is due to these reasons that she should be considered disabled for any form of work."
2. Consult letter from an allergy specialist dated 18 February 2017. Impression: "From history and SPT [skin prick test] there is not an IgE-mediated food option that can be eliminated as part of her therapeutic plan."
3. Consult letter from a gastroenterologist dated 30 January 2017, who writes:
"...It is interesting that her emesis is usually when she has spicy foods or lactose-containing foods. If she does have, for example, [fast food restaurant], she actually does quite well. Her weight has been reasonably stable, no joint issues, no atypical rashes.

We discussed the diagnosis of eosinophilic gastroenteritis. There is no peripheral eosinophilia. At this stage, I have referred her to an allergist/immunologist [...]. I have also given her a trial of [anti-inflammatory medication] for a month, tapering down... until complete... In the long term, if it appears that we cannot assess precipitants/allergens, we will have to consider immune suppression and she is aware of this. I requested a lactose tolerance test as well."
4. Consult letter from a gynecologist, dated 04 November 2014, regarding a referral for menorrhagia. No menstrual abnormalities were noted and no further follow-up was scheduled.

Notice of Appeal

The appellant's Notice of Appeal is dated 125 May 2017. Under Reasons, the appellant writes that she would like to inform the ministry that she has changed her family doctor, as her new doctor's office is closer to where she lives, and that doctor better understands the native language of her parents, so that her parents will have a better understanding of her condition.

The hearing

With the consent of both parties, the hearing was conducted in writing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The appellant did not make a submission for the hearing.

In an email dated 13 June 201 the ministry stated that its submission will be the reconsideration summary provided in the Record of the Ministry Decision.

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. Specifically, the ministry determined that the information provided did not establish that the appellant has a severe physical or mental impairment that, in the opinion of a prescribed professional,

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

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

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

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 or nurse 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 section 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.

Severity of impairment

Physical impairment

The ministry began its analysis of the information provided regarding severity of impairment by noting that the diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a severe impairment. The ministry defined an "impairment" as a medical condition that results in restrictions to a person's ability to function independently or effectively. The ministry must consider the nature of the impairment and the extent of its impact on daily functioning based on the functional skill limitations and restrictions. The panel notes that the PR form also provides a definition along similar lines, while expanding on the restrictions to a person's ability to function to include "appropriately or for a reasonable duration." While the definition as framed by the ministry in its decision is not set out in the legislation, the panel finds that it is consistent with the overall intent of the legislation, with its focus on restrictions and help required.

Consistent with the approach of looking to the reported impacts of the appellant's medical conditions on daily functioning, the ministry noted that the GP reports that the appellant can walk 1 to 2 blocks unaided, can climb 5+ steps unaided, and is limited to lifting 5 to 15 pounds. The GP also reports that the appellant is independent walking indoors and outdoors and standing. The GP reports periodic assistance is required with climbing stairs, and reports continuous assistance required with lifting, carrying and holding.

The ministry further noted that the appellant is reported to be independent with her personal care, medications, and transportation and is not reported to take significantly longer with any of these activities. The ministry acknowledges that the appellant has a markedly reduced exercise tolerance; however, it is unclear why she is reported to require continuous assistance with basic housekeeping, shopping, meals, paying bills and lifting and carrying given that the GP also reported her to be independent with walking 1 to 2 blocks, climbing 5+ stairs and lifting 5 to 15 pounds. As such, the ministry concluded that it is not been demonstrated that the appellant has a severe physical impairment to her overall ability to function independently or effectively. The ministry also noted that while it is reported that the appellant's exercise tolerance significantly impact her ability to work, employability is not a factor when determining PWD designation.

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 prescribed professional (in this case the GP) permits the minister to form a reasonably comprehensive overview of the nature and extent of the impacts of the person's medical conditions on daily functioning. It is therefore reasonable for the minister to expect that the MR and the AR include explanations, descriptions or examples in the spaces provided.

The GP has provided some general narrative regarding the impacts of the appellant's medical conditions on her physical functioning (e.g. from the AR: “markedly reduced exercise tolerance” and from his letter at reconsideration: “difficult for her to perform even extended activities of daily living”). In the MR he reported that she is able to walk 1 to 2 blocks unaided and lift 5 to 15 lbs., assessments that are suggestive of a moderate, not a severe, impairment of physical functioning. However, he has not provided any specific explanation or description in the space provided in the AR regarding his assessments that the appellant requires continuous assistance from another person or is unable for lifting and carrying and holding, despite his walking and lifting assessments in the MR. Taken together, these two sets of assessments can be interpreted as meaning either a) while the appellant is able to lift a moderate weight or walk some distance, for some unexplained reason she cannot do both at the same time – i.e. cannot carry any weight for any distance or b) that she can lift and carry a moderate weight for some distance, but is unable without assistance to lift and carry a weight that exceeds 5 to 15 lbs. or the distance is greater than 1 to 2 blocks. Given these inconsistent assessments and contradictory interpretations, the panel finds that the ministry was reasonable in concluding that these assessments did not establish a severe physical impairment.

These inconsistent assessments, and the lack of explanation for them, are also relevant to the DLA criterion. (See below under direct and significant restrictions in the ability to perform DLA.)

The panel notes that in her SR the appellant describes how her disability affects her life mostly in terms of how she has been unable to maintain employment hold down a job. Similarly, in his narratives the GP places some emphasis on how the appellant's medical conditions affect her employability. For example, in the MR he writes, “The patient has markedly decreased exercise (work) capacity due to her cardiac disease,” and in his letter at reconsideration he concludes with, “It is due to these reasons that she should be considered disabled for any form of work.”

As the ministry noted in the reconsideration decision, 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 is not one of the prescribed DLA.

For the above reasons, the panel finds the ministry was reasonable in determining that a severe physical impairment has not been established.

Mental impairment

In the reconsideration decision, the ministry noted that the GP did not identify any mental health disorder. The ministry did note however that the GP had identified significant deficits with cognitive and emotional functioning in the areas of executive, emotional, and motivation, and reported that the appellant's illness has resulted in significant depressive symptoms. The GP reported that the appellant's impairment has a major impact to her sleep and motivation and reported moderate impacts with emotion, attention/concentration and executive thinking. The ministry also noted that the GP reported that the appellant has good functioning with her immediate social networks but has major social isolation with her extended networks. The ministry concluded by acknowledging the appellant's identified impairments, but found that these are not indicative of a severe mental impairment.

The panel notes that the GP has provided only general information regarding the appellant's mental health. As the ministry noted, the GP did not diagnose any mental health disorder. In the MR, he referred to "depressive symptoms" without describing these in any detail. Further, there is insufficient evidence that the appellant's mental health condition is serious enough to require treatment, either with prescription drugs or through other therapy.

In terms of impacts on daily functioning, the GP stated that the appellant's conditions "resulted in markedly disruptive functioning and has led to social isolation," without providing the narrative necessary for the ministry to find that a severe mental impairment had been established on the basis of "markedly disruptive functioning." For example, while the GP assessed a major impact of the appellant's mental health condition on bodily functions (sleep disturbance), he has not provided any description as to how often or to what extent sleep is disturbed and what the consequences are for her physical functioning the next day. The GP also assessed a major impact in the area of motivation and under DLA assessed the appellant as requiring continuous assistance from another person or unable for paying rent and bills, commenting that the appellant lacks motivation for this DLA and needs her mother's help. However, the GP has not identified any other area of daily functioning where lack of motivation is a factor. The panel also notes that while the GP has referred to "social isolation," and assessed the appellant as requiring periodic support/supervision for developing and maintaining relationships (without describing the nature, frequency or duration of such support/supervision), he has assessed the appellant as independent for making appropriate social decisions and interacting appropriately with others.

In the absence of a diagnosis of a mental health disorder and without the narrative that would support the GPs assessments of major impacts on daily functioning, the panel finds that the ministry was reasonable in determining that severe mental impairment has not been established.

Direct and significant restrictions in the ability to perform DLA

Panel decision

The panel notes that, according to the legislation, the direct and significant restriction in the ability to perform DLA must be the result of a severe impairment, a criterion not established in this appeal. The legislation – section 2(2)(b)(i) of the EAPWDA – requires the minister to assess direct and significant restrictions of DLA in consideration of the opinion of a prescribed professional, in this case the appellant's GP. This does not mean that other evidence should not be factored in as required to provide clarification of the professional evidence, but the legislative language is clear that a prescribed professional's evidence is fundamental to the ministry's determination whether it is

“satisfied.” 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 extent to which the ability to perform DLA is restricted, as assessed in terms of the nature and duration of help required, in order for the ministry to determine whether the restrictions are “significant.”

In the reconsideration decision, the ministry stated that it is not satisfied that the appellant has a severe impairment that, in the opinion of a prescribed professional, directly and significantly restricts her ability to perform DLA continuously or periodically for extended periods.

In reaching this conclusion, the ministry noted that the GP reports that the appellant requires continuous assistance with regulating diet, basic housekeeping, shopping (going to and from stores and carrying purchases home), and also with meals, paying bills, and refilling prescriptions. However, it is unclear to the ministry why the appellant would then require continuous help in these areas given her reported functional skills. The ministry acknowledged the appellant's reduced exercise tolerance due to her heart condition and G.I. issues. However, the ministry found that there is not enough information provided to support that the appellant's impairment results in a direct and significant restriction in her ability to perform DLA, either continuously or periodically for extended periods. In the ministry's view, reduced exercise tolerance, loss of energy, and lack of motivation are not indicative of an overall significant continuous restriction in her ability to complete her DLA. The ministry also added that it is unclear what the GP meant when reporting that it is difficult for the appellant to perform “even extended activities of daily living.”

As discussed above under severity of physical impairment, there are inconsistencies between the GP's assessments in the MR of the appellant's walking and lifting ability and those in the AR regarding help required for lifting and carrying and holding. Given these inconsistencies, the panel considers the ministry reasonable when finding it unclear why the appellant would require continuous assistance from another person for such DLA as basic housekeeping, shopping (going to and from stores and carrying purchases home), and also with meals and refilling prescriptions. While the GP has explained the need for continuous assistance from the appellant's mother for paying rent and bills due to lack of motivation, he has not provided an explanation for his assessments of continuous assistance required for these other DLA – whether these are as a result of the appellant's heart disease, lack of energy because of her G.I. condition, fatigue due to sleep disturbance, or lack of motivation due to her mental impairment. Further, the GP has not provided any description as to whether there are limits in her abilities for various aspects of these DLA – for example, for basic housekeeping, no information is provided as to whether the limitations encompass such light-duty aspects as sweeping the floor, wiping clean the counter and table, making her bed, or washing dishes or whether they extend only to more strenuous activities such as vacuuming or washing floors. Without such information, in the panel's view it would be difficult for the ministry to determine if the restrictions were “direct” and “significant.”

The panel further notes other unexplained inconsistencies regarding the GP's assessments of the appellant's ability to perform DLA: she is assessed as requiring continuous assistance from another person or unable to go to and from stores, yet as independent for using public transit; and she is assessed as requiring continuous assistance from another person or unable for regulating diet, yet she assessed as independent for making appropriate choices when shopping.

As a severe impairment has not been established, and considering that the GP – the prescribed professional – has not provided a clear picture of how, to what degree, or why the appellant's ability to perform DLA is restricted, the panel finds that the ministry was reasonable in determining that it has not been established that the appellant has a severe impairment that significantly restricts her ability to perform DLA continuously or for extended periods. The panel therefore finds that the

ministry was reasonable in finding that this legislative criterion has not been met.

Help required

Panel decision

In the reconsideration decision, the ministry held that, as it has not been established that DLA are significantly restricted, 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.

While the appellant benefits from the assistance of her family, 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.