

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) Reconsideration Decision (RD) dated October 22, 2019, which found that the Appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) for designation as a person with disabilities (PWD). While the Ministry found that the Appellant met the age requirement and had an impairment which was likely to continue for at least two years, it 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 Ministry also found that the Appellant is not 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* (EAPWDR) and the Appellant did not appeal the decision on this basis.

PART D – RELEVANT LEGISLATION

EAPWDA, Section 2

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 2

Employment and Assistance Act (EAA), Section 22(4)

PART E – SUMMARY OF FACTS

The evidence before the Ministry at the time of the RD included the PWD Application comprised of:

- The applicant information and self report (SR) completed by the Appellant and dated August 31, 2019;
- A Medical Report (MR) dated August 25, 2019 and completed by the Appellant's General Practitioner (GP) who has known the Appellant since 2015 and who has seen the Appellant 2 to 10 times in the past year; and,
- An Assessor Report (AR) dated August 25, 2019, also completed by the GP.

The evidence also included:

- A Request for Reconsideration (RFR) signed by the Appellant on October 5, 2019 in which the reason for RFR is not completed;
- A letter to the Ministry from the Appellant dated October 9, 2019 in which the Appellant states that:
 - They have continuous medical issues and their symptoms are getting worse every day;
 - The symptoms include chest pains, which are getting worse, and the machine provided to help with sleep apnea is not helping at all; and,
 - The medications they are taking makes them feel dizzy and makes their joints ache.
- An undated, one page note written by the Appellant in which the Appellant:
 - Provides information about their background and lists their physical ailments as diagnosed by the GP and as summarized below;
 - Describes the symptoms as set out in the RFR and as summarized above;
 - States that they must use a sleep apnea machine (the Machine) or they will suffocate; and,
 - Provides a list of medications they are taking, which makes the Appellant "*feel very dizzy and sleepy*";
- A sleep apnea assessment report dated July 29, 2018 and prepared by an ear, nose and throat (ENT) and sleep surgery specialist on behalf of the Appellant indicating a mild "*suspected pathological breathing disorder*" and listing technical results and analysis;
- A letter addressed "to whom it may concern" signed by the GP and dated August 22, 2018 indicating that the Appellant has been diagnosed with obstructive sleep apnea and requires treatment. The letter also states that the treatment (nasal Continuous Positive Airway Pressure or CPAP) is "*being successfully used*";

- A sleep disordered therapy progress report dated October 17, 2018 prepared by a registered respiratory therapist (RRT) indicating that 2 pre-trial symptoms (snoring and frequent trips to bathroom) have stopped and that the frequency of a third pre-trial symptom (frequent awakenings) has decreased, with the comment “*(Appellant) has improved ... compliance from 57% (to 73%)*” and “*with some pressure and mask changes, (Appellant) has improved with CPAP but is still working on improving hourly usage*”; and,
- A CPAP report dated July 24, 2019 (CPAP Report), in which the RRT states that the Appellant had been re-tested for sleep apnea in June 2019 “*as (they have) very poor compliance*” and indicating that the CPAP Report shows “*worsening sleep apnea*”. The RRT also states that the Appellant reports having difficulty tolerating CPAP therapy, that the RRT had told the Appellant about the importance of therapy, and that the RRT would continue to follow-up.

Diagnoses

In the MR, the GP diagnoses the Appellant with sleep apnea, hypertension, ventricular septal defect (VSD) and a fatty liver. No dates of onset for any of the medical conditions are provided.

Physical Impairment

In the MR, the GP states that the Appellant has an ongoing nasal blockage affecting sleep and that lack of sleep causes poor concentration and ongoing fatigue during the day, such that the Appellant’s ability to work is affected. With respect to functional skills, the GP reports that the Appellant can walk more than 4 blocks unaided on a flat surface, climb more than 5 steps unaided, lift 7 - 16 kg., and can remain seated for 2 - 3 hours.

In the section of the AR where the assessor is asked to indicate the assistance required related to impairments that directly restrict the applicant’s management of mobility and physical abilities, the GP indicates that the Appellant is independent in walking indoors and outdoors, climbing stairs and standing, but that they require periodic assistance from another person in lifting, and carrying and holding, adding the comment “*family helps*” and “*due to overweight / obesity unable to carry heavy weight*”. Where asked to provide any additional information that may be relevant to understanding the nature and extent of the applicant’s impairment and its effect on DLA, the GP writes “*Patient is obese. Unable to carry/lift/push heavy weights. Also ... has sleep apnea affecting ... concentration and alertness during daytime*”.

In the SR, the Appellant states that the lack of sleep resulting from sleep apnea deteriorates their health and that they “*feel fatigue all the time and (they) cannot be active*”. The Appellant also states that the medication they are taking makes them feel dizzy and sleepy.

Mental Impairment

The GP does not provide a diagnosis of a mental health condition or brain injury. In the MR, the GP attributes a significant deficit with the Appellant’s attention and sustained concentration, which the GP attributes to disturbed sleep caused by sleep apnea.

In the section of the AR where the prescribed professional is asked to indicate the degree to which the applicant's mental impairment restricts or impacts daily functioning, the GP has indicated no impacts in all areas except attention/concentration, for which the GP has indicated a minimal impact. Other than fatigue from sleep apnea and dizziness from medication as summarized above, the Appellant does not identify any mental impairments.

Restrictions in the Ability to Perform DLA

In the MR, the GP has ticked the box marked "no" in answer to the question: "Has the applicant been prescribed any medications and/or treatments that interfere with his/her ability to perform (DLA)", adding the comment "*apart from hypertension and dyslipidemia treatment*". The GP does not explain how hypertension and dyslipidemia treatment interferes with the Appellant's ability to perform DLA.

In the AR, the GP states that the Appellant is independent with respect to all listed DLA in the areas of personal care, shopping (except for carrying purchases home), meals (except for food preparation and cooking), medications and transportation. With respect to those DLA for which the Appellant is not independent (basic housekeeping, carrying purchases home, meal preparation and cooking), the GP indicates that the Appellant needs periodic assistance "*due to ... obesity/sleep apnea*" and that the Appellant's spouse helps with those activities.

In the section of the AR where the assessor is asked to indicate the level of support or supervision required by the applicant, the GP indicates that the Appellant is independent in all areas (making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others). In assessing how the applicant's mental impairment impacts both their relationship with their immediate social network and their relationship with their extended social network, the GP has ticked "good functioning".

The Appellant does not indicate whether they have any restrictions in ability to perform DLA in the SR. In the RFR, the Appellant states that they have continuous medical issues and that their symptoms get worse every day but does not address any particular DLA restrictions.

Need for Help

In the MR the GP indicates that the Appellant does not require any prostheses or aids for their impairment.

As indicated above, in the AR the GP has indicated that the Appellant gets help from their spouse in basic housekeeping, carrying purchases home, meal preparation and cooking. In the section of the AR that asks who provides the help required for DLA the GP has ticked "Family" and written "*help in carrying weights*". Where asked what assistance is provided through the use of assistive devices, the GP writes "NA". The GP also states that the Appellant does not have an assistance animal.

The Appellant does not indicate whether they need any assistance in performing DLA in the SR or the RFR.

Additional Information Submitted after Reconsideration

In the Notice of Appeal (NOA), the Appellant writes “*I believe that I qualify and my symptoms are getting worse*”.

The Appellant was assisted by a translator at the hearing.

At the hearing, the Appellant explained that prior to 2017 they were working, but at that time they began to experience problems with their sleep. As a result, the Appellant went to a sleep apnea clinic for testing and treatment and discovered that they had severe sleep apnea. On the advice of the specialist at the sleep apnea clinic, the Appellant purchased the Machine and took time off work. While the Appellant was also told that they would have to sleep for at least 4 hours for the Machine to work effectively, they could only sleep for 2 hours at a time. The Appellant also explained that they soon realized that they were unable to sleep for more than an hour at a time or they would stop breathing and that they were not able to sleep at all at night. The Appellant got into the habit of eating excessively at night, gained 20 kilos from over-eating and they were laid off from their job. The Appellant was also forced to sleep in one hour segments during the day, and to rely on an alarm and their spouse to wake them. The Appellant stated that they made the decision to sleep for an hour at a time without first consulting with their GP or any other prescribed professional, and that when they wake up they “*feel like (they’re) in the ocean and can’t breathe*”.

The Appellant explained that their sleep apnea affects their daily living and ability to perform DLA. They explained that they could manage personal hygiene but that fatigue and dizziness made it very difficult, and that they have to sit on a chair when showering. The Appellant also stated that they had problems with neck pain, the side effects of which were severe headaches and feeling weak all day. The Appellant explained that they used to sleep in a bed on their stomach, but because of neck pain they now have to sleep on their side on a couch. The Appellant also described a pain they have had for about a year in the right side of their torso, which they described as feeling like someone was reaching inside their body and holding and squeezing it. The Appellant stated that they had an appointment with a new GP on the day following the hearing about the pain in their side, and hoped to get a referral to see a specialist following that.

In response to a question from the Panel, the Appellant stated that the Machine was partially effective when they started using it two years ago, but was no longer providing any relief. The Appellant explained that at their most recent visit to the sleep apnea clinic the specialist had told them that the Machine might have to be adjusted because the Appellant’s tongue was “*blocking the air even with the machine*”.

In response to a question from the Ministry, the Appellant stated that they did not have any assistance in preparing their case in advance of the RD. The Appellant said they didn’t understand why they had been denied the PWD designation. The Appellant did revisit their GP, who speaks the Appellant’s native language, after their application was initially denied, and the GP explained that there was nothing else that the GP could do and no additional information they could supply, as they had accurately provided all of the relevant information in the MR and the AR.

In response to a question from the Panel, the Appellant explained that they considered having a private service translate the Ministry's RD into their native language, but that the cost was prohibitive. In response to another question from the Panel, the Appellant also stated that they had not sought the assistance of an advocate in preparing for the RD. The Appellant indicated that they had received some interpretation assistance from a private source, but that the assistance was simply to inform them that the PWD had been denied.

At the hearing, the Ministry relied on its RD and emphasized that, while considering the evidence provided by an applicant, the Ministry puts the most weight on the medical information provided by prescribed professionals in assessing whether to provide the PWD designation. The Ministry referred to the GP's assessment of the Appellant's functional skills, specifically their ability to walk unaided on a flat surface, climb stairs, lift weight and remain seated. In response, the Appellant stated that their GP did not ask them those questions.

The Ministry also explained that an applicant's ability to work is not a criterion for the PWD designation, and, in response to a question from the Panel, stated that there is another Ministry designation under which a client might qualify for additional benefits in circumstances where they are unable to work, referred to as a Person with Persistent Multiple Barriers (PPMB).

Admissibility of Additional Information

Section 22(4) of the EAA provides that panels may admit as evidence (i.e. take into account in making its decision) the information and records that were before the Ministry when the decision being appealed was made and "*oral and written testimony in support of the information and records*" before the Ministry when the decision being appealed was made, i.e. information that substantiates or corroborates the information that was before the Ministry at reconsideration. Because a panel can only accept oral and written testimony in support of the information and records before the Ministry when the decision was made, there is limited discretion for a panel to admit new evidence. Once the panel has determined which additional evidence is admissible under EAPWDA Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, panels must determine whether the decision under appeal was reasonable based on all admissible evidence.

The Panel considered the written information in the NOA to be argument. The Panel considered the Appellant's oral testimony at the hearing regarding the pain that has recently developed on the Appellant's right torso and their assertion that the GP did not consult with the Appellant in recording their functional skills in Section D of the MR to be argument or evidence that was not in support of the information and records that were before the Ministry at reconsideration and therefore did not admit the additional information in accordance with Section 22(4)(b) of the EAA.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the Ministry's RD, which found that the Appellant is not eligible for designation as a PWD, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant. Was it reasonable for the Ministry to determine that the evidence does not establish that the Appellant has a severe mental or physical impairment and that the Appellant's DLA are not, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods? Was it reasonable for the Ministry to determine that as a result of any direct and significant restrictions it could not be determined that the Appellant requires the 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 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 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).

The EAPWDR provides 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.

(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 ...

Part 1.1 — Persons with Disabilities

Alternative grounds for designation under section 2 of Act

2.1 The following classes of persons are prescribed for the purposes of section 2 (2) [persons with disabilities] of the Act:

- (a) a person who is enrolled in Plan P (Palliative Care) under the Drug Plans Regulation, B.C. Reg. 73/2015;
- (b) a person who has at any time been determined to be eligible to be the subject of payments made through the Ministry of Children and Family Development's At Home Program;

- (c) a person who has at any time been determined by Community Living British Columbia to be eligible to receive community living support under the Community Living Authority Act;
- (d) a person whose family has at any time been determined by Community Living British Columbia to be eligible to receive community living support under the Community Living Authority Act to assist that family in caring for the person;
- (e) a person who is considered to be disabled under section 42 (2) of the Canada Pension Plan (Canada).

The EAA provides as follows:

Panels of the tribunal to conduct appeals

22 (4) In a hearing referred to in subsection (3), a panel may admit as evidence only

- (a) the information and records that were before the minister when the decision being appealed was made, and
- (b) oral or written testimony in support of the information and records referred to in paragraph (a).

The EAR provides as follows:

Procedures

86 The practices and procedures of a panel include the following: ...

- (b) the panel may hear an appeal in the absence of a party if the party was notified of the hearing ...

Eligibility under section 2.1 of the EAPWDR

In the absence of any evidence or argument respecting eligibility for PWD designation under section 2.1 of the EAPWDR, the Panel finds that the Ministry reasonably determined that it has not been established that the Appellant falls within the prescribed classes of persons under that section. Therefore the Panel’s discussion below is limited to eligibility for PWD designation under section 2 of the EAPWDA and section 2 of the EAPWDR.

Eligibility under section 2 of the EAPWDA

Severity of Impairment

Neither the terms “*impairment*” nor “*severe*” are defined in the EAPWDA. The Cambridge Dictionary defines “*impairment*” in the medical context to be “*a medical condition which results in restrictions to a person’s ability to function independently or effectively*” and defines “*severe*” as “*causing very great pain, difficulty, worry, damage, etc.; very serious*”. “*Impairment*” is defined in the MR and the AR sections of the PWD application form to be “*a loss or abnormality of psychological, anatomical, or physiological structure or function causing a restriction in the ability to function independently, appropriately or for a reasonable duration*”. The Panel finds that the Ministry’s definition of “*impairment*” as set out in the MR and the AR is a reasonable definition of the term for the purpose of partially assessing an applicant’s eligibility for the PWD designation.

A diagnosis of a severe impairment does not in itself determine PWD eligibility. Section 2(2) of the EAPWDA requires that in determining whether a person may be designated as a PWD, the Ministry must be satisfied that the individual has a severe physical or mental impairment with two additional characteristics: in the opinion of a prescribed professional, it must both be likely to continue for at least two years [EAPWDA 2(2)(a)] and it must significantly restrict a person's ability to perform DLA continuously or periodically for extended periods, resulting in the need for the person to require assistance in performing those activities [EAPWDA 2(2)(b)]. Therefore, in determining PWD eligibility, after assessing the severity of an impairment the Ministry must consider how long the severe impairment is likely to last and the degree to which the ability to perform DLA is restricted and help in performing DLA is required.

Physical Functioning

The Ministry's position is that, while acknowledging that the Appellant sometimes needs help with heavy lifting, it does not establish the presence of a severe impairment to their overall physical functioning, and that the Appellant's description of losing breath after a few steps and needing to stop is not supported by the evidence provided by the Appellant's GP, making it "*difficult to determine which description is a more accurate reflection of your ability to ambulate*". As a result, the Ministry has concluded that the information provided by the Appellant's prescribed professional does not establish the presence of a severe physical impairment. The Appellant's position is that they have continuous medical issues, including sleep apnea, chest and neck pains, and an undiagnosed pain in their right torso. In addition, the Appellant's chest pains and tightness are getting worse, if they walk a few steps they have to stop to take a breath, and the Machine is not helping at all.

Panel Decision

The Panel notes that, in making its determination regarding an applicant's physical functioning, the Ministry must consider all the relevant evidence, including that of the Appellant. However, Section 2(2) of the EAPWDR makes it clear that the fundamental basis for the analysis is the evidence from a prescribed professional – in this case the Appellant's GP. The Panel further notes that the legislation requires that any impairment, physical or mental, must be considered "severe". Physical functioning abilities are largely assessed in the "Functional Skills" section of the MR. The Panel notes that the GP has indicated in the MR that the Appellant has no restrictions with walking unaided on a flat surface or climbing stairs unaided, and is able to lift 7 – 16 kg and remain seated for 2 – 3 hours.

As the Appellant's prescribed professional has indicated that the Appellant is either unconstrained or otherwise minimally limited in their functional skills, having considered all of the evidence, the Panel finds that the information provided in the Appellant's application for the PWD designation was reasonably viewed by the Ministry as not establishing a severe impairment.

Mental Functioning

The Ministry's position is that the information provided in the Appellant's application for the PWD designation does not establish the presence of a severe mental impairment. The Appellant's position is that, while their attention and concentration are severely impacted by the lack of sleep they experience as a result of sleep apnea (a physical impairment), they are not mentally impaired.

Panel Decision

The Panel has reviewed all the evidence and finds that the Ministry reasonably determined that the Appellant does not have a severe mental impairment.

Restrictions in the Ability to Perform DLA

The Appellant's position is that they have to rely on their spouse for several DLA, and, while they can manage personal hygiene, things take significantly longer due to fatigue and the Appellant has to sit on a chair to take a shower. In its RD, the Ministry notes that, while the Appellant states in their RFR that their medication causes dizziness and sore joints, the GP indicates in the MR that the Appellant has not been prescribed any medications or treatments that interfere with the ability to manage DLA. In addition, the Ministry notes that, while the Appellant requires periodic assistance from their spouse with laundry, basic housekeeping, carrying purchases home, food preparation, cooking and activities that require heavy lifting, the frequency and duration of the periodic assistance is not indicated. As a result, the Ministry is not satisfied that the evidence demonstrates that the Appellant's restrictions are significant.

Panel Decision

Section 2(2)(b) of the EAPWDA requires that the Ministry be satisfied that a prescribed professional has provided an opinion that an applicant's severe impairment *directly* and *significantly* restricts their DLA, continuously or periodically for extended periods. In this case, the GP is the prescribed professional. DLA are defined in Section 2(1) of the EAPWDR and are also listed in the MR and, with additional details, in the AR. The term "directly" means that there must be a causal link between the severe impairment and the restriction. The direct restriction must also be significant. Finally, there is a component related to time or duration – the direct and significant restriction must be either continuous or periodic. If periodic, it must be for extended periods.

DLA are defined in section 2(1) of the EAPWDR and are listed in both the MR and the AR sections of the PWD application, wherein the prescribed professional is instructed to check marked boxes and to provide additional explanations, for example, a description of the type and amount of assistance required. DLA, as defined in the legislation, do not include the ability to work. As noted above, the restriction is to be in the opinion of a prescribed professional, which in this case is the GP.

The Panel notes that the Ministry has stated that the frequency and duration of the periodic assistance required by the Appellant for specified DLA is not indicated in the Appellant's application. Inherently, any analysis of periodicity must also include consideration of the frequency. All other things being equal, a restriction that only arises once a year is less likely to be significant than one that occurs several times a week. Accordingly, in circumstances where the evidence indicates that a restriction arises periodically, the Panel finds that it is appropriate for the Ministry to require evidence of the duration and frequency of the restriction in order to be "satisfied" that this legislative criterion is met.

The Panel notes that, while indicating in the AR that the Appellant needs periodic assistance because of their obesity and sleep apnea and that the Appellant's spouse helps with those activities, the GP does not provide any explanation as to the frequency or duration of the periodic assistance provided. In

addition, the Panel notes that the Appellant does not indicate whether they need any assistance in performing DLA in the SR or the RFR.

The Panel has reviewed all the evidence and finds that the Ministry reasonably determined that the GP, a prescribed professional, has not provided an opinion that the Appellant's impairment directly and significantly restricts their DLA, continuously or periodically for extended periods.

Help with DLA

The Appellant's position is that they have to rely on their spouse to provide help in performing several DLA. The Ministry's position is that, because 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 from another person.

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. 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 one or more DLA.

Having found that the Ministry was reasonable in concluding that this precondition was not met, the Panel also finds that the Ministry reasonably concluded that it cannot be determined that the Appellant requires help to perform "those activities" as a result of direct and significant restrictions with DLA as required by section 2(2)(b)(ii) of the EAPWDA.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the Panel finds that the Ministry's RD, which determined that the Appellant was not eligible for the PWD designation under Section 2 of the EAPWDA, was reasonably supported by the evidence and was a reasonable application of the EAPWDA in the circumstances of the Appellant, and therefore confirms the decision. The Appellant's appeal, therefore, is not successful.

APPEAL NUMBER

PART G – ORDER

THE PANEL DECISION IS: (Check one) UNANIMOUS BY MAJORITY

THE PANEL CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H – SIGNATURES

PRINT NAME

Simon Clews

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/11/18

PRINT NAME

Tina Ahnert

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

PRINT NAME

Carla Tibbo

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)