

APPEAL NUMBER
2020-00148

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated May 25, 2020, which held that the appellant received \$19,654.94 of income assistance from March 2014 through January 2020 for which the appellant was ineligible and is liable to repay. The overpayment resulted from the failure to report monthly pension income which was unearned income that should have been deducted from the appellant's monthly income assistance as required by section 28 of the Employment and Assistance Regulation (EAR).

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), sections 27 and 28

EAR, sections 1 ("unearned income"), 10, 28, and 33 and Schedule B

PART E – SUMMARY OF FACTS

Information before the ministry at reconsideration

- The appellant received income assistance between January 2013 and March 2020. The ministry notes, without further explanation, that the appellant is no longer a recipient of income assistance.
- On January 9, 2020, the appellant informed the ministry of the receipt of a pension of approximately \$300.00 CDN per month from the appellant's previous country of residence. The appellant stated to the ministry that this money is deposited into a foreign account jointly held with the appellant's brother and is spent on property taxes and utilities for a property owned by the appellant in the foreign country.
- A letter dated March 2, 2020 in which the appellant describes:
 - a) Circumstances respecting the foreign property, including its acquisition, construction of a home on the property, and the impact of war in the foreign country on the appellant's ability to maintain the property in good condition so that it could work as a rental property or be sold.
 - b) Medical conditions are impacting the appellant's physical functioning.
 - c) The process of relocating to Canada and efforts to establish a business in Canada, which is reported to have failed during the 2008 recession. Attached is a document entitled "Money Transfer Statement" prepared by the appellant identifying 95 payments totaling \$262,309.20 (CDN) described by the appellant as "Money invested in Canada from 2005 till 2010."

Also attached is a document indicating the amount of the foreign pension payments received between January 2014 and November 2019. The panel notes that these bi-monthly payment amounts appear to have been relied upon by the ministry as the same amounts are included in the ministry's Overpayment Chart.

- On March 11, 2020, the appellant was advised of a \$19,654.94 overpayment of income assistance due to the failure to report the pension income which was unearned income that should have been deducted from the appellant's monthly income assistance.
- On May 11, 2020, the appellant submitted a Request for Reconsideration in which the appellant stated:
 - a) Payments relating to the foreign property are obligations, not a matter of choice as described by the ministry.
 - b) War in the foreign country prevented the appellant's return to that country.
 - c) \$0 income was reported to the ministry because the appellant did not receive any money and will not for 5-6 years until all liabilities are paid.
 - d) The reduction in income [assistance] resulting from reporting the foreign pension puts the appellant's survival in danger.

Information provided on appeal and admissibility

In the Notice of Appeal, dated June 1, 2020, the appellant writes "Convention between Canada and [foreign country] signed on [date]." No additional information or explanation is provided by the appellant.

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The appellant did not provide additional submissions for the written appeal. The ministry's appeal submission was a June 22, 2020 email stating that its submission is the reconsideration summary provided in the Record of the Ministry Decision.

The panel accepted the information in the appellant's NOA as argument.

As no additional evidence was provided by either party, a determination of admissibility under section 22(4) of the EAA was not required.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the ministry's decision that the appellant received income assistance for which the appellant was not eligible and must repay is reasonably supported by the evidence or a reasonable application of the applicable legislation. Specifically, was the ministry reasonable when concluding that the foreign pension was non-exempt or deductible unearned income that should have been reported and deducted from the appellant's monthly income assistance March 2014 through January 2020?

Positions of the Parties

The appellant's position is that there was no income to report to the ministry because the appellant did not receive the pension funds because they were required to meet financial obligations on the foreign property. The appellant requests that the ministry take into account the specific circumstances in the foreign country impacting the appellant's ability to manage the property as well as financial business losses incurred in Canada, noting that given the appellant's current health and financial losses incurred, any deduction from support payments will make it very difficult to survive. On appeal, the appellant also references, without further explanation, a convention between Canada and the foreign country.

The ministry's position is that, while recognizing that the pension income is deposited into a foreign joint account, the pension income is paid to the appellant and must be considered when determining the appellant's eligibility for income assistance based on the following legislation:

- Section 1 of the EAR defines "unearned income" as any income that is not earned income, including without limitations, any money or value received from pensions.
- There are no allowable deductions or exemptions (including property taxes and utility costs for the foreign property) for this type of unearned income under Schedule B (sections 1, 6, and 7).
- Section 10 of the EAR states that a recipient's net income includes any amount garnished, attached, seized, deducted or set off from the recipient's income.
- Section 28 of the EAR states that the amount of monthly income assistance is determined by deducting the amount of income calculated under Schedule B from the amount of shelter and support allowances calculated under Schedule A.
- Section 33 of the EAR requires that income must be reported by the fifth of the month after the month in which it is received – income received in January 2014 must be reported by February 5th and affects March income assistance.

Based on this legislation, the ministry reviewed the overpayment chart and pension amounts, which the ministry notes are confirmed by the appellant, and concluded that between March 2014 and January 2020 the appellant received \$19,654.94 of income assistance, the total amount of pension payments, for which the appellant was not eligible and, in accordance with section 27 of the EAA, must be repaid by the appellant.

Panel Analysis

Having reviewed the appellant's record of pension payments and the ministry's Overpayment Chart respecting the period at issue, the panel notes that there is no dispute as to the amounts of income assistance or pension payments listed.

While the panel understands that the appellant has financial obligations respecting the foreign property and the money is deposited into a jointly held foreign account, the appellant does in fact receive the pension money. Accordingly, the appellant was required, in accordance with section 33 of the EAR, to report the pension payments to the ministry.

How the pension income is treated when calculating the amount of income assistance for which the appellant was eligible depends on what type of income the pension payments are considered under the EAR and whether there are any applicable exemptions or deductions. Section 28 of the EAR requires that net monthly income be deducted from the total of the shelter and support allowances applicable to a family unit to determine the amount of income assistance for which a person is eligible.

Section 1 of the EAR defines “unearned income” as any income that is not earned income, including, without limitation, types of income described in paragraphs (a) through (y). These include (e) superannuation benefits, (f) any type or class of Canada Pension Plan benefits, and (j) workers’ compensation benefits and disability payments or pensions. While “pensions” are not listed as a stand-alone item, and foreign pensions are not included in the list, the list is not exhaustive and “any income that is not earned income” is considered unearned income. Furthermore, it would be inequitable to treat foreign pension income differently from domestic pension income. Accordingly, the panel concludes that the ministry was reasonable when determining that foreign pension income received by the appellant is unearned income as defined in section 1 of the EAR.

Once the pension income is determined to be unearned income, the next step is to determine if any or all of it is exempt or deducted when calculating monthly net income. Schedule B of the EAR sets out the rules for calculating net income with section 1 [Deduction and exemption rules] listing types of earned and unearned income that are exempt and sections 6, 7 and 8 listing types of unearned income that are not included in a family unit’s monthly net income. Except for the types of unearned income listed in sections 1, 6, 7, and 8, all other unearned income must be included when calculating monthly net income. Having reviewed these sections, the panel concludes that none of these exemptions and deductions apply to the appellant’s pension income. Additionally, as the ministry notes, Schedule B does not permit deduction of the property taxes and utilities paid for the foreign property when calculating the appellant’s net monthly income. Therefore, the ministry reasonably concluded that the entire amount of monthly pension income received by the appellant must be deducted when determining the amount of income assistance for which the appellant is eligible under section 28 of the EAR.

In reaching this conclusion, the panel notes that the exemptions and deductions listed in Schedule B do not reference a convention between Canada and the foreign country paying the pension and that a person’s financial or health difficulties are not taken into account.

Conclusion

Accordingly, as the monthly pension income received by the appellant should have been deducted from the monthly shelter and support allowances, and there are no allowable deductions respecting the costs associated with the foreign property, the ministry was reasonable to conclude that the appellant received an overpayment of income assistance and that 27(1) of the EAA requires the appellant to repay the value of the overpayment. The panel notes that section 27(2) of the EAA states that the amount a person is liable to repay is not appealable. Accordingly, the panel makes no findings as to the amount of the overpayment.

The ministry’s decision was a reasonable application of the legislation in the circumstances of the appellant. The appellant is not successful on appeal.

Relevant Legislation

Employment and Assistance Act

Overpayments

27 (1) If income assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 17 (3) [*reconsideration and appeal rights*].

Liability for and recovery of debts under Act

28 (1) An amount that a person is liable to repay under this Act is a debt due to the government that may be

(a) recovered in a court that has jurisdiction, or

(b) deducted, in accordance with the regulations, from any subsequent income assistance, hardship assistance or supplement for which the person's family unit is eligible or from an amount payable to the person by the government under a prescribed enactment.

(2) Subject to the regulations, the minister may enter into an agreement, or accept any right assigned, for the repayment of an amount referred to in subsection (1).

(3) An agreement under subsection (2) may be entered into before or after the income assistance, hardship assistance or supplement to which it relates is provided.

(4) A person is jointly and separately liable for a debt referred to under subsection (1) that accrued in respect of a family unit while the person was a recipient in the family unit.

Employment and Assistance Regulation

Definitions

1 "unearned income" means any income that is not earned income, and includes, without limitation, money or value received from any of the following:

- (a) money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;
- (b) cooperative associations;
- (c) war disability pensions, military pensions and war veterans' allowances;
- (d) insurance benefits, except insurance paid as compensation for a destroyed asset;
- (e) superannuation benefits;
- (f) any type or class of Canada Pension Plan benefits;
- (g) employment insurance;
- (h) union or lodge benefits;
- (i) financial assistance provided under the [*Employment and Assistance for Persons with Disabilities Act*](#) or provided by another province or jurisdiction;
- (j) workers' compensation benefits and disability payments or pensions;
- (k) surviving spouses' or orphans' allowances;
- (l) a trust or inheritance;
- (m) rental of tools, vehicles or equipment;
- (n) rental of land, self-contained suites or other property except the place of residence of an applicant or recipient;
- (o) interest earned on a mortgage or agreement for sale;
- (p) maintenance under a court order, a separation agreement or other agreement;
- (q) education or training allowances, grants, loans, bursaries or scholarships;
- (r) a lottery or a game of chance;

(s) awards of compensation under the [Criminal Injury Compensation Act](#) or awards of benefits under the [Crime Victim Assistance Act](#), other than an award paid for repair or replacement of damaged or destroyed property;

(t) any other financial awards or compensation;

(u) Federal Old Age Security and Guaranteed Income Supplement payments;

(v) financial contributions made by a sponsor pursuant to an undertaking given for the purposes of the [Immigration and Refugee Protection Act](#) (Canada) or the [Immigration Act](#) (Canada);

(w) tax refunds;

(x) gifts of money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;

(y) gifts in the form of payment by another person of a debt or obligation;

"unfunded program of studies" means a program of studies for which a student enrolled i

Limits on income

10 (1) For the purposes of the Act and this regulation, "income", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.

(2) A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

Amount of income assistance

28 Income assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

(a) the amount determined under Schedule A, minus

(b) the family unit's net income determined under Schedule B.

Monthly reporting requirement

33 (1) For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

- (a) the report must be submitted by the 5th day of each calendar month,
and
- (b) the information required is all of the following, as requested in the
monthly report form specified by the minister:
 - (i) whether the family unit requires further assistance;
 - (ii) changes in the family unit's assets;
 - (iii) all income received by the family unit and the source of that
income;
 - (iv) the employment and educational circumstances of recipients in the
family unit;
 - (v) changes in family unit membership or the marital status of a
recipient;
 - (vi) any warrants as described in section 15.2 (1) of the Act.

Schedule B

Deduction and exemption rules

1 When calculating the net income of a family unit for the purposes of section 28 (b) [*amount of income assistance*] of this regulation,

(a) the following are exempt from income:

- (i) any income earned by a dependent child attending school on a full-time
basis;
- (ii) Repealed. [B.C. Reg. 96/2017, App. 1, s. 2 (a).]
- (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
- (iv) a family bonus, except the portion treated as unearned income under
section 10 (1) of this Schedule;
- (iv.1) the Canada child benefit, except the portion treated as unearned income

under section 10 (1) of this Schedule;

(v) the basic child tax benefit;

(vi) a goods and services tax credit under the *Income Tax Act* (Canada);

(vii) a tax credit under section 8 [*refundable sales tax credit*], 8.1 [*climate action tax credit*] or 8.2 [*BC harmonized sales tax credit*] of the *Income Tax Act* (British Columbia);

(viii) individual redress payments granted by the government of Canada to a person of Japanese ancestry;

(ix) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to a person infected by the human immunodeficiency virus;

(x) individual payments granted by the government of British Columbia to a person infected by the human immunodeficiency virus or to the surviving spouse or dependent children of that person;

(xi) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to thalidomide victims;

(xii) money that is

(A) paid or payable to a person if the money is awarded to the person by an adjudicative panel in respect of claims of abuse at Jericho Hill School for the Deaf and drawn from a lump sum settlement paid by the government of British Columbia, or

(B) paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. C980463, Vancouver Registry;

(xiii) the BC earned income benefit;

(xiv) money paid or payable under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid or payable under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;

(xv) a rent subsidy provided by the provincial government, or by a council, board, society or governmental agency that administers rent subsidies from the provincial government;

(xvi) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 22 (a).]

(xvii) money paid or payable to a person in settlement of a claim of abuse at an Indian residential school, except money paid or payable as income replacement in the settlement;

- (xvii.1) money that is paid or payable to or for a person if the payment is in accordance with
- (A) the Sixties Scoop Settlement made November 30, 2017, or
 - (B) the Federal Indian Day Schools Settlement made March 12, 2019, as amended May 13, 2019;
- (xviii) post adoption assistance payments provided under section 28 (1) or 30.1 of the Adoption Regulation, B.C. Reg. 291/96;
- (xix) a rebate of energy or fuel tax provided by the government of Canada, the government of British Columbia, or an agency of either government;
- (xx) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (xxi) payments granted by the government of British Columbia under section 8 [*agreement with child's kin and others*] of the *Child, Family and Community Service Act*;
- (xxii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- (xxiii) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (xxiv) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*, for contributions to the support of a child;
- (xxv) a loan that is
- (A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and
 - (B) received and used for the purposes set out in the business plan;
- (xxvi) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
- (A) Autism Funding: Under Age 6 Program, or
 - (B) Autism Funding: Ages 6 — 18 Program;
- (xxvii) Repealed. [B.C. Reg. 148/2015, App. 1, s. 1 (a).]
- (xxviii) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the *Mental Health Act*, for the purpose of supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program;
- (xxix) a refund provided under Plan I as established under the Drug Plans Regulation;

- (xxx) payments provided by Community Living BC to assist with travel expenses for a recipient in the family unit to attend a self-help skills program, or a supported work placement program, approved by Community Living BC;
- (xxxi) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);
- (xxxii) money paid by the government of Canada, under a settlement agreement, to persons who contracted Hepatitis C by receiving blood or blood products in Canada prior to 1986 or after July 1, 1990, except money paid under that agreement as income replacement;
- (xxxiii) money withdrawn from a registered disability savings plan;
- (xxxiv) a working income tax benefit provided under the *Income Tax Act* (Canada);
- (xxxv) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]
- (xxxvi) the climate action dividend under section 13.02 of the *Income Tax Act*;
- (xxxvii) money paid or payable to a person under the *Criminal Injury Compensation Act* as compensation for non-pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience that occurred when the person was under 19 years of age;
- (xxxviii) money that is paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. S024338, Vancouver Registry;
- (xxxix) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;
- (xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;
- (xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;
- (xlii) money paid or payable from a fund that is established by the government of British Columbia, the government of Canada and the City of Vancouver in relation to recommendation 3.2 of the final report of the Missing Women Commission of Inquiry;
- (xliii) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;
- (xliv) a BC early childhood tax benefit;
- (xlv) child support;
- (xlvi) orphan's benefits under the *Canada Pension Plan Act* (Canada);

- (xlvii) gifts, other than recurring gifts;
- (xlviii) compensation paid or payable under section 17 [*compensation in fatal cases*] or 18 [*addition to payments*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 17 of that Act;
- (xlix) money that is paid or payable by or for Community Living BC to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by Community Living BC, an employee of Community Living BC or a person retained under a contract to perform services for Community Living BC;
- (l) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the minister, the ministry, an employee of the ministry or a person retained under a contract to perform services for the ministry;
- (l.1) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the Minister of Children and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;
- (l.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;
- (li) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;
- (lii) payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;
- (liii) money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee;
- (liv) money that is paid or payable from a settlement in respect of Treaty No. 8 agricultural benefits;
- (lv) money that is paid or payable from a settlement under
 - (A) the Cadboro Bay Litigation Settlement Agreement, dated for reference November 1, 2017, between the Esquimalt Nation and Canada, or
 - (B) the settlement agreement, dated for reference October 30, 2017, between the Songhees Nation and Canada;

(Ivi) money that is paid or payable under the Memorial Grant Program for First Responders established under the authority of the *Department of Public Safety and Emergency Preparedness Act* (Canada),

(b) any amount garnished, attached, seized, deducted or set off from income is considered to be income, except the deductions permitted under sections 2 and 6 of this Schedule,

(c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4 of this Schedule, and

(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7 and 8 of this Schedule.

Deductions from unearned income

6 The only deductions permitted from unearned income are the following:

- (a) any income tax deducted at source from employment insurance benefits;
- (b) essential operating costs of renting self-contained suites.

Exemptions — unearned income

7 (0.1) In this section:

"disability-related cost" means a disability-related cost referred to in paragraph (a), (b) or (c) of the definition of disability-related cost in section 13 (1) [*assets held in trust for person receiving special care*] of this regulation;

"disability-related cost to promote independence" means a disability-related cost referred to in paragraph (d) of the definition of disability-related cost in section 13 (1) of this regulation;

"intended registered disability savings plan or trust", in relation to a person referred to in section 13.1 (2) [*temporary exemption of assets for person applying for disability designation or receiving special care*] of this regulation, means an asset, received by

the person, to which the exemption under that section applies;

"structured settlement annuity payment" means a payment referred to in subsection (2) (b) (iii) made under the annuity contract referred to in that subsection.

(1) The following unearned income is exempt:

- (a) the portion of interest from a mortgage on, or agreement for sale of, the family unit's previous place of residence if the interest is required for the amount owing on the purchase or rental of the family unit's current place of residence;
- (b) \$50 of each monthly Federal Department of Veterans Affairs benefits paid to any person in the family unit;
- (c) a criminal injury compensation award or other award, except the amount that would cause the family unit's assets to exceed, at the time the award is received, the limit applicable under section 11 [*asset limits*] of this regulation;
- (d) a payment made from a trust to or on behalf of a person referred to in section 13 (2) [*assets held in trust for person receiving special care*] of this regulation if the payment is applied exclusively to or used exclusively for
 - (i) disability-related costs,
 - (ii) the acquisition of a family unit's place of residence,
 - (iii) a registered education savings plan, or
 - (iv) a registered disability savings plan;
- (d.1) subject to subsection (2), a structured settlement annuity payment made to a person referred to in section 13 (2) (a) of this regulation if the payment is applied exclusively to or used exclusively for an item referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (d) of this subsection;
- (d.2) money expended by a person referred to in section 13.1 (2) [*temporary exemption of assets for person applying for disability designation or receiving special care*] of this regulation from an intended registered disability savings plan or trust if the money is applied exclusively to or used exclusively for disability-related costs;
- (d.3) any of the following if applied exclusively to or used exclusively for disability-related costs to promote independence:

- (i) a payment made from a trust to or on behalf of a person referred to in section 13 (2) of this regulation;
- (ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 13 (2) (a) of this regulation;
- (iii) money expended by a person referred to in section 13.1 (2) of this regulation from an intended registered disability savings plan or trust;

(e) the portion of Canada Pension Plan Benefits that is calculated by the formula $(A-B) \times C$, where

A = the gross monthly amount of Canada Pension Plan Benefits received by an applicant or recipient;

B = (i) in respect of a family unit comprised of a sole applicant or a sole recipient with no dependent children, 1/12 of the amount determined under section 118 (1) (c) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act, or

(ii) in respect of any other family unit, the amount under subparagraph (i), plus 1/12 of the amount resulting from the calculation under section 118 (1) (a) (ii) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act;

C = the sum of the percentages of taxable amounts set out under section 117 (2) (a) of the *Income Tax Act* (Canada) and section 4.1 (1) (a) of the *Income Tax Act*;

(f) a tax refund;

(g) a benefit paid under section 22, 23 or 23.2 of the *Employment Insurance Act* (Canada) to any person in the family unit.

(2) Subsection (1) (d.1) and (d.3) (ii) applies in respect of a person only if

(a) the person has entered into a settlement agreement with the defendant in relation to a claim for damages in respect of personal injury or death, and

(b) the settlement agreement requires the defendant to

(i) make periodic payments to the person for a fixed term or the life of the person,

(ii) purchase a single premium annuity contract that

- (A) is not assignable, commutable or transferable, and
- (B) is designed to produce payments equal to the amounts, and at the times, specified in the settlement agreement,
- (iii) make an irrevocable direction to the issuer of the annuity contract to make all payments under that annuity contract directly to the person, and
- (iv) remain liable to make the payments required by the settlement agreement.

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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

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/07/08

PRINT NAME

Jan Broocke

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/07/08

PRINT NAME

Diane O'Connor

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/07/08