

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated January 23, 2023, which denied the appellant's Request for Reconsideration (RFR).

Specifically, the minister found the appellant failed to deliver a completed RFR to the ministry within the 20 business days time-limit set out in Section 71(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Therefore, no reconsideration would be conducted.

**Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Act, section 16(1)  
Employment and Assistance for Persons with Disabilities Regulation, section 71(2)

**Part E – Summary of Facts**

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

**Summary of key dates:**

- On November 5, 2020, the ministry denied the appellant's request for Persons with Disabilities (PWD) designation and informed the appellant of this decision via My Self Serve (MySS.)
- On November 12, 2020, the ministry mailed the written PWD denial package to the appellant's mailing address.
- On December 9, 2020, the appellant read the denial decision in MySS. The denial decision included an offer for the appellant to file a written Request for Reconsideration (RFR) within 20 business days, specifically by January 9, 2021.
- The appellant did not submit a written RFR by the due date of January 9, 2021, and did not contact the ministry to account for the delay in submitting this form.
- On March 30, 2022, the appellant visited a ministry office and was provided with a new PWD application for completion. This application has not been submitted to the ministry.
- On December 30, 2022, the appellant requested reconsideration of the ministry's November 5, 2020 decision to deny him the PWD designation, and a reconsideration package was mailed to the appellant.
- On January 9, 2023, the appellant submitted his Request for Reconsideration. The appellant stated in part "... I am asking for reconsideration for PWD because it has been approximately year and a half since I sent in [an] application form. I don't want to bother you guys too much but thought it would be a good time to send it in. My conditions have not changed in the last year or so in fact. So I decided to give it another try."
- On January 23, 2023, the ministry completed its review of the appellant's Request for Reconsideration. The ministry decision determined that a reconsideration of the decision to deny the appellant with PWD designation could not be conducted because the appellant's request was made outside of legislated timelines. The

ministry's decision also noted that "should you wish to re-apply for PWD, you are able to do so at this time."

**Additional Information**

In his Notice of Appeal (NOA), the appellant provided this information as his reason for appeal: "I struggle in public places do [sic] to my disability. I am barely getting by on social assistance. I'm trying to get out of place I am staying. It is not a great place to live with disability." The appellant, in his NOA, does not address that his RFR exceeded the 20 business day submission requirement.

The appellant did not provide a written submission.

The ministry, in its March 2, 2023 written submission to the Tribunal office, stated that: "The ministry's submission in this matter will be the reconsideration summary provided in the [January 23, 2023] Record of Ministry Decision.

**Admissibility of Additional Information**

The panel admits the appellant's NOA under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**Part F – Reasons for Panel Decision**

The issue in this appeal is whether the ministry's decision, that the appellant was denied a request for reconsideration as the request was past the 20 days time limit required to submit the request, is reasonably supported by the evidence or is a reasonable application of the legislation.

**Appellant Position**

The appellant's position is that his conditions have not changed "in the last year or so," and that he decided to "give it another try" and submit an RFR.

**Ministry Position**

The ministry's position is the appellant submitted the RFR on January 9, 2023, which is beyond the legislated 20 business day time limit set out in legislation. Therefore, the appellant had no right to reconsideration.

**Panel Decision**

Section 71 of the EAPWDR sets out that a person who wishes a reconsideration must deliver a Request for Reconsideration (RFR) to the ministry office where they receive assistance. The legislated requirement is that the RFR must be delivered within 20 business days after being notified of the decision.

The ministry's decision to deny the appellant PWD designation was made on November 5, 2020, and the appellant was informed of the denial via MySS. The ministry then mailed a written denial package to the appellant on November 12, 2020. The appellant read the decision on MySS on December 9, 2020.

The appellant submitted his RFR on January 9, 2023, more than two years after the ministry's decision to deny him PWD designation. The appellant's January 9, 2023 submission falls significantly beyond the legislated requirement that a RFR be submitted within 20 business days after being notified of the decision. Therefore, the panel finds the ministry was reasonable to determine they could not reconsider the decision to deny PWD designation.

The panel is empathetic to the appellant's situation and notes the ministry statement that he can re-apply for PWD by submitting a new PWD application.

**Conclusion**

The panel finds the ministry's decision not to render a reconsideration decision was reasonably supported by the evidence and confirms the ministry's decision. The appellant is not successful in his appeal.

**APPENDIX****RELEVANT LEGISLATION****Reconsideration and appeal rights**

**16** (1) Subject to section 17, a person may request the minister to reconsider any of the following decisions made under this Act:

- (a) a decision that results in a refusal to provide disability assistance, hardship assistance or a supplement to or for someone in the person's family unit;
- (b) a decision that results in a discontinuance of disability assistance or a supplement provided to or for someone in the person's family unit;
- (c) a decision that results in a reduction of disability assistance or a supplement provided to or for someone in the person's family unit;
- (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
  - (i) the maximum amount of the supplement under the regulations, and
  - (ii) the cost of the least expensive and appropriate manner of providing the supplement;
- (e) a decision respecting the conditions of an employment plan under section 9 [*employment plan*].

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

**71** (1) A person who wishes the minister to reconsider a decision referred to in section 16 (1) [reconsideration and appeal rights] of the Act must deliver a request for reconsideration in the form specified by the minister to the ministry office where the person is applying for or receiving assistance.

(2) A request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in section 16 (1) of the Act and may be delivered by

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

APPEAL NUMBER 2023-0036

**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) ☐

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

**Part H – Signatures**

Print Name

Melissa McLean

Signature of Chair

Date (Year/Month/Day)

2023/03/13

Print Name

Janet Ward

Signature of Member

Date (Year/Month/Day)

2023/03/13

Print Name

Kevin Ash

Signature of Member

Date (Year/Month/Day)

2023/03/13