

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) decision, dated May 23, 2023 (the Decision), denying the Appellant Persons With Disabilities (PWD) designation.

The Ministry found that the Appellant met the age (over 18) and duration (impairment to last 2 years) requirements.

However, the Ministry found:

- The Appellant did not have a severe physical or mental impairment;
- The Appellant's daily living activities aren't directly and significantly restricted; and,
- The Appellant doesn't need the significant help to do daily living activities because of significant restrictions.

The Ministry also found the Appellant was not one of the prescribed classes of persons eligible for PWD on alternative grounds. As there was no information or argument on this point, the Panel considers it not to be an issue in this appeal.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (the Act), section 2

Employment and Assistance for Persons with Disabilities Regulation (the Regulation), sections 2 and 2.1

Employment and Assistance Act, section 22(4)

The legislation is in the Appendix at the end of this decision.

Part E – Summary of Facts

The information the Ministry had at the time of the Decision included:

- The Self Report, completed by the Appellant and dated September 26, 2022, in which the Appellant says that it is difficult to find an employer to work with her needs, and it is impossible for her to maintain employment due to her physical and mental impairments. Information in the Self Report relating to her impairments is summarized below;
- The Medical Report, dated November 30, 2022, completed by the Appellant's Doctor (the Doctor);
- The Assessor Report, dated December 1, 2022, also completed by the Doctor; and,
- The Appellant's request for reconsideration (the Reconsideration Request), dated May 8, 2023, in which the Appellant does not indicate why she wanted the Ministry to reconsider its original decision.

Diagnoses

In the Medical Report, the Doctor says the Appellant has:

- Anxiety disorder, with a date of onset of September 2007;
- Mood disorder (Depression), with a date of onset of September 2005;
- Attention deficit hyperactivity disorder (ADHD), with a date of onset of April 2017; and,
- Scoliosis, with a date of onset of November 2020.

The Doctor has also written "*Other health concern: chronic dyspepsia*".

Physical Impairment

In the Medical Report, where asked how the Appellant's medical condition impairs her, the Doctor says the Appellant's scoliosis, which is moderate to severe, affects her ability to sit or stand for long periods.

The Doctor says the Appellant is able to:

- Walk more than 4 blocks on a flat surface without help;
- Climb 5 or more steps;
- Lift without limitation; and,
- Remain seated for less than one hour.

In the Assessor Report, the Doctor says the Appellant is independent with walking indoors and outdoors, climbing stairs, lifting, carrying, and holding, but takes significantly longer than typical to manage standing.

In the Self Report, where explaining why she is unable to work, the Appellant says she gets extreme back pain from being forced to sit or stand for too long, adding "*While I can take care of myself physically at my own pace, maintaining employment ... has proven impossible.*"

Mental Impairment

In the Medical Report, the Doctor says the Appellant's anxiety disorder and depression "*very severely*" affect her quality of life. Regarding the Appellant's ADHD, the Doctor writes "*Severe affectation; tried stimulant medications in the past but had to discontinue due to severe side effect; poor concentration is major symptom of condition.*" The Doctor also says the Appellant has significant deficits with consciousness, executive functioning, memory, emotional disturbance, motivation, impulse control, motor activity, and attention and sustained concentration. The Doctor says that the Appellant was referred to a psychiatrist, and that an appointment had been made for May 12, 2023.

In the Assessor Report, the Doctor says the Appellant's writing, reading, and hearing abilities are good, and her speaking skills are satisfactory. The Doctor also says the Appellant's mental impairment has major impacts on her emotional functioning, impulse control, motivation, attention/concentration, and motivation. The Doctor says there are also moderate impacts on her bodily functions, memory, and motor activity, and minimal impacts on her consciousness, and insight and judgement.

In the Self Report, where explaining why she is unable to work, the Appellant says her physical impairments cause stress, anxiety, and depression. She also says her ADHD "*makes everything ... so much worse than it would otherwise be.*"

Restrictions in the Ability to Perform Daily Living Activities

In the Medical Report, the Doctor says the Appellant has been prescribed medications that interfere with her ability to do daily living activities, adding "*previously prescribed stimulant ... for ADHD management but has since discontinued medication September 2019 due to severe side effect and affectation of daily activities*".

In the Assessor Report, where asked what impairments impact the Appellant's ability to do daily living activities, the Doctor says her ADHD results in an inability to maintain focus, and her anxiety and depression give her a "*feeling of worthlessness; difficulty concentrating; loss of interest*"

The Doctor also says the Appellant has the following abilities with daily living activities:

- **Perform personal hygiene and self care** – Independent with all listed tasks;
- **Perform housework to maintain the person's place of residence in acceptable sanitary condition** - Independent with all listed tasks;

- **Shop for personal needs** – Experiences severe anxiety when going to and from stores unassisted, and, while independent, is compulsive when making shopping choices;
- **Prepare own meals** – Independent with all listed tasks;
- **Use public or personal transportation facilities** – Independent with getting in and out of a personal vehicle but does not use public transportation;
- **Move about indoors and outdoors** – See a summary of the Doctor’s comments about the Appellant’s physical functioning capabilities as expressed in the Medical Report in the “Physical Impairment” section above;
- **Make decisions about personal activities, care, or finances** – Independent with banking but takes significantly longer than typical with budgeting and paying rent and bills (“*occasionally misses payment due to lack of concentration*”). The Doctor also says that the Appellant sometimes forgets to refill prescriptions due to a lack of organization, or occasionally forgets to take medications; and,
- **Relate to, communicate or interact with others effectively** - See a summary of the Doctor’s comments about the Appellant’s social functioning abilities as expressed in the Assessor Report in the “Mental Impairment” section above.

Need for Help

In the Medical Report the Doctor says the Appellant does not require any aids for her impairment.

In the Medical Report and the Assessor Report, the Doctor says the Appellant lives with family.

In the Assessor Report, the Doctor also describes the support or supervision required which would help maintain the Appellant in her community as “*Psychological counselling; cognitive behavioural therapy*”. Where asked to describe what assistance would be necessary where help is required but none is available, the Doctor has written “*Community Service Agencies*”. The Doctor also identifies the following equipment or devices used by the Appellant to help compensate for her impairments:

- Posture corrector braces for her scoliosis; and,
- Communicative devices in the form of a phone and laptops to make appointments for assistance in communicating, rather than speaking.

The Doctor also says that the Appellant doesn’t have an assistance animal.

Additional Information Submitted after Reconsideration

In the Notice of Appeal, the Appellant says “*The severity of my condition has had and continues to have a significant impact on my every day daily life*”.

On July 13, 2023, the Appellant provided additional information (the Submission). The Submission comprised:

- A four-page undated document prepared by the Appellant and addressed "*To whom it may concern*" (the July 13 Document). This Document starts "*My purpose for writing this is to detail my medical conditions (mental and physical), their symptoms and how these issues impact my life on a daily basis.*" Information in the July 13 Document is summarized below;
- A one-page letter from the Doctor, dated May 24, 2023, in which the Doctor provides the impairments for which the Appellant has been referred to a psychiatrist (the May 24 Letter). Information in the May 24 Letter is summarized below;
- A one-page letter from the Doctor, dated June 27, 2023, in which the Doctor identifies "*multiple mental and physical concerns*" with which the Appellant is dealing (the First June 27 Letter). Information in the First June 27 Letter is summarized in the discussion below;
- A two-page letter from the Doctor, also dated June 27, 2023, in which the Doctor also identifies the mental and physical concerns with which the Appellant is dealing and then describes their impact on her "*quality of life*" (the Second June 27 Letter). The Second June 27 Letter also lists some additional impairments. Information in the Second June 27 Letter is summarized in the discussion below.

In a Ministry submission dated July 25, 2023, the Ministry said it would rely on its original Decision.

Diagnosis

In addition to the diagnoses provided by the Doctor in the Medical Report, the following diagnoses of mental impairments for which the Appellant has been referred to a psychiatrist are provided in the documents the Doctor provided for the Submission:

- Obsessive Compulsive Personality Disorder (OCPD)
- Generalized Anxiety Disorder (GAD) with panic disorder
- Major Depressive Disorder

In their documents included with the Submission, the Doctor also says the Appellant has been referred to various medical specialists, and she is undergoing evaluation for:

- Autism Spectrum Disorder (ASD)
- ADHD
- Post Traumatic Stress Disorder (PTSD)

The Doctor provides the following additional diagnoses of physical impairments in the First June 27 Letter:

- Irritable Bowel Syndrome
- A skin lesion, the cause of which is "*yet to be determined*"

In the Second June 27 Letter, the Doctor also says the Appellant suffers from nausea, abdominal bloating, chronic diarrhea, and heartburn.

Physical Impairment

In the First June 27 Letter, the Doctor says "*I can confirm that (the Appellant) is dealing with chronic back pain. She is also being seen by (a dermatologist) for a blistering, excoriating skin lesion yet to be determined.*"

In the Second June 27 Letter the Doctor says they can also confirm "*that the Appellant is dealing with ... neck pain as well as scoliotic changes in her spine.*" He also lists the Appellant's physical impairments as "*Inability to sit for over one (1) hour*" and "*Extreme difficulty with standing & walking over one (1) hour*".

In the Second June 27 Letter, the Doctor says the Appellant has been referred to a gastroenterologist for her "*daily nausea, abdominal bloating, chronic diarrhea and heartburn*".

In the Submission, the Appellant says "*The scoliosis in my upper back has had a profound impact on my life since the pain began in late 2019. Since then I have lost ... the ability to use my arms or hold my neck in a set position for any length of time due to the location of the curve in my back being between my shoulder blades. The pain I experience from this condition spreads from the center of my back to the center of my neck, around my entire rib cage to under my breasts, and into my shoulders. ... (I) f I do push myself to do something such as sit at a computer for an hour, afterwards I will be in intense pain for multiple days.*

Some ways scoliosis is impacting my life include:

- Inability to sit for more than 1 hour*
- Inability to type/write/produce work for more than 1 hour*
- Inability to commute more than 1 hour*
- Limited ability to stand, and when standing am still unable to use arms (standing desks are ineffective)*
- Difficulty sleeping*

For this condition I have not been offered or been made aware of any cure or treatment for the pain."

Regarding the "*blistering, excoriating skin lesion*" impairment identified in the Doctor's First June 27 Letter, the Appellant says "*Since early 2020 I have been experiencing issues with my skin where the skin on my hands cannot get wet or be excessively dried out or they will become dry, cracked, blistered, peeled and will start to bleed ... wearing gloves does not help as the sweat*

inside is just as damaging. So far the prescribed medication for this condition has not been effective, and this condition is expected to continue indefinitely."

Mental Impairment

In the Second June 27 Letter, the Doctor says the Appellant has the following cognitive impairments: sleep difficulty, memory difficulty, extreme difficulty focusing on tasks, extreme fatigue, difficulty with executive functioning/poor time management and organizational skills, disordered eating, intense anxiety, and extreme low mood and lack of interest in previously liked activities.

Restrictions in the Ability to Perform Daily Living Activities

In the Second June 27 Letter, the Doctor says the Appellant's unknown dermatologic condition *"where both hands are dry, cracked, peels and bleeds quite frequently"* results in *"activities like washing dishes and showering that involves water contact with affected limbs causes severe pains and discomfort ... In addition, she is dealing with medication side effects from her numerous medications."*

Regarding her dermatological condition, the Appellant says in the Submission *"Simple things like doing dishes and taking a shower are enough to make my hands open up and bleed"*. The Appellant also identifies the following symptoms that affect her ability to provide and care for herself: poor time management and organizational skills (resulting from her executive dysfunction), impulsiveness, a fundamental inability to pay attention for extended periods or take in information without stimulation, and memory problems.

In the Submission, the Appellant also says *"(her mental health issues) feed off of each other and create a very difficult to navigate way of thinking. This causes ... extreme anxiety in daily life. Some of the ways (OCPD) impacts my life are:*

- *Overthinking and paranoia over stressful situations and social interactions*
- *Perfectionism/dwelling on small details and taking longer than necessary*
- *Disordered eating causing physical illness"*.

Regarding her anxiety and depression, the Appellant says that she has taken multiple medications over the past 15 years *"and each medication has resulted in debilitating side effects such as chronic fatigue, increased depression, and nausea/vomiting. Each of the above disorders affects every aspect of my life on a daily basis."* The Appellant also suggests that other daily living activities difficulties might be the result of PTSD or ASD, though she acknowledges that PTSD and ASD *"have not yet been diagnosed or confirmed"*. She goes on to say *"(PTSD) is believed to be why simple tasks like going to the grocery store, going outside to get something from my car, or going for a walk alone cause such stress, anxiety and paranoia for me. However, regardless if these symptoms are a result of PTSD or something else, they still impact my life on a daily basis."*

Need for Help

In the Submission, the Appellant says she believes she would benefit from a service dog, *"however at this time due to a lack of stability, supports and funds I have not inquired about one yet."* She also says *"I know that going forward for the rest of my life I will require multiple medications, therapy, and support from doctors and my community."*

Admissibility of New Evidence

Section 22(4) of the *Employment and Assistance Act* says that a panel can consider evidence that is not part of the record when the Ministry made the Decision. But first the panel must feel that the new information is relevant. Once a panel has determined if any new evidence can be admitted, it must decide if the Decision was reasonable considering the new evidence.

The Panel notes that no new evidence appears in the Notice of Appeal.

The Panel finds that all of the new information included in the Submission (letters from the Doctor and the Appellant) might reasonably be considered to be relevant to the Decision. Therefore, the Panel admits the new evidence and assigns it full weight because it is provided by the Doctor, who is a prescribed professional, and the Appellant.

Part F – Reasons for Panel Decision

The issue in the appeal is whether the Decision was reasonable, based on all the evidence, or whether the legislation was reasonably applied in this case. In other words, was it reasonable for the Ministry to determine that:

- The Appellant doesn't have a severe mental or physical impairment;
- The Appellant's daily living activities aren't directly and significantly restricted either continuously or periodically for extended periods due to the severe impairment; and,
- It couldn't be determined that the Appellant needs help to do daily living activities.

ANALYSIS**Severity of Impairment**

"Impairment" is defined in the Medical Report and the Assessor Report as *"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 considers the Ministry's definition of "impairment" to be a reasonable definition of the term in considering an applicant's eligibility for the PWD designation.

In determining PWD eligibility, the Ministry must consider all relevant evidence, which includes the Appellant's evidence. That said, the legislation says that the Ministry must make its decision based largely on the prescribed professionals' opinion.

The Ministry has determined that both the duration of the impairment criterion and the Appellant's age criterion have been met, so they are not at issue in this appeal.

Physical Impairment

The Appellant's position is that her scoliosis has had a profound impact on her life because she has lost the ability to use her arms or hold her neck in a set position for any length of time. As a result, while she can take care of herself physically at her own pace, maintaining employment has proven impossible.

The Ministry's position is that the Doctor reports that the Appellant has moderate to severe scoliosis that affects her ability to stand and sit for prolonged periods, the Doctor indicates that the Appellant does not require any prostheses or aids for her impairment. In addition, the Doctor reports that the Appellant can walk, climb, and lift without limitation. The Ministry concludes that the inability to stand or remain seated for long periods does not confirm a severe degree of physical impairment.

Panel Decision

The legislation requires assessment by a "*prescribed professional*", which includes a doctor or other physician. The Ministry has designed two reports to measure physical impairment based on someone's ability to function physically, the Medical Report and the Assessor Report. In this case, both reports were completed by the Doctor. The Medical Report and Assessor Report both ask the prescribed professional to indicate if the person applying for PWD has any restrictions with physical functions, and to explain the restrictions or provide comments giving more detail, such as how any restrictions impact the applicant's physical abilities.

The Panel notes that, of the physical impairments described by the Doctor and Appellant, only scoliosis has been described as having a large impact on two of her physical functioning skills (standing and sitting). In the Medical Report, the Doctor describes her scoliosis symptoms as being "*moderate – severe*". The Appellant has indicated that she is unable to stand or sit for more than an hour as a result of her scoliosis, and this has been confirmed by the Doctor. In the Submission, the Appellant explains that her standing and sitting restrictions have made it impossible for her to continue working in her chosen field, and that she can take care of herself physically "*at her own pace*".

Regarding a physical impairment, the legislation says the Ministry must be satisfied that an impairment is severe. The Doctor has described the degree of the Appellant's physical impairment as being moderate to severe. In the Medical Report, the Doctor has not identified significant limitations with any of the Appellant's physical functioning abilities other than that she is unable to stand or sit for more than an hour. The Appellant says her physical functioning skills affect her ability to work but do not significantly restrict her ability to do daily living activities. Therefore, the Panel finds that the Ministry reasonably determined that the Appellant does not have a severe physical impairment affecting her ability to perform daily living activities, as required by the legislation.

Mental Impairment

The Appellant's position is that she has anxiety and depression from the stress caused by her physical impairments and her ADHD and OCPD cause her extreme levels of debilitating anxiety. Although she acknowledges that PTSD and ASD have not yet been diagnosed or confirmed, she believes that she does have those mental disorders too and that they also cause stress, anxiety, and paranoia.

The Ministry's position is that a severe degree of mental impairment is not established, as the Appellant is reported to be independent in almost all activities related to making decisions about personal activities, including personal care, meals, medication management, finances, and social functioning.

Panel Decision

The legislation says the Ministry must be satisfied that any mental impairment is severe. This assessment also must be made by a prescribed professional, in this case the Doctor. The legislation also specifically says that a person who has a severe mental impairment includes a person with a mental disorder.

The legislation doesn't define what mild, moderate or severe cognitive deficits are. In the Medical Report and the Assessor Report, prescribed professionals are asked to say how mental skills are affected by a mental impairment to help the Ministry assess the applicant's severity.

The Panel notes that the Doctor has confirmed that the Appellant suffers from three mental disorders and is currently being assessed by specialists for an additional three mental disorders. In the Medical Report, the Doctor says the Appellant's anxiety disorder and depression "*very severely*" affect her. Regarding the Appellant's ADHD, the Doctor describes the effect as "*severe*". The Doctor also says the Appellant has significant deficits with eight cognitive and emotional functions (consciousness, executive functioning, memory, emotional disturbance, motivation, impulse control, motor activity, and attention and sustained concentration).

The Doctor, as a prescribed professional, is best qualified to assess the severity of a person's impairments. As the Doctor has described several of the Appellant's mental disorders as severe, the Panel find that the Ministry was not reasonable in determining that the Appellant does not have a severe mental impairment.

Restrictions in the Ability to Perform Daily Living Activities

The Appellant's position is that simple tasks like going to the grocery store, going outside to get something from her car, or going for a walk alone cause her great stress, anxiety, and paranoia.

The Ministry's position is that it has not been demonstrated that the Appellant's daily living activities are severely restricted, because the Doctor indicates in the Assessor Report that the Appellant is independent in most listed activities. And for those daily living activities where the Appellant is not fully independent, it is not clear that there are significant restrictions outside of the typical range of functioning. Regarding social functioning activities, the Ministry has determined that there is insufficient information for the Ministry to conclude that the Appellant's social functioning challenges result in a significant restriction in any daily living activities.

Panel Decision

After assessing the severity of an impairment, the Ministry must consider how long the severe impairment is likely to last, how much the applicant's ability to do daily living activities is restricted, and if they need help with daily living activities. Daily living activities are defined in the legislation to include the following activities: prepare own meals, manage personal finances, shop for personal needs, use public or personal transportation facilities, perform housework to

maintain the person's place of residence in acceptable sanitary condition, move about indoors and outdoors, perform personal hygiene and self care, manage personal medication, and, for a person who has a severe mental impairment, make decisions about personal activities, care or finances, and relate to, communicate or interact with others effectively. The Panel notes that this list of activities does not include the ability to pursue gainful employment.

The legislation says the Ministry must be satisfied that a prescribed professional has said that an applicant's severe impairment *directly and significantly* restricts their daily living activities, either *continuously* or *periodically for extended periods*. Because the term daily living activities appears in the Act in the plural ("*daily living activities*"), more than one daily living activity must be significantly restricted.

The Appellant has explained that she is unable to work in her chosen field due to her scoliosis, and that her skin lesions of unidentified cause make it difficult for her to do dishes or take a shower. However, the ability to work is not listed as a daily living activity in the Act. In addition, the Panel has found that the Ministry reasonably determined that the Appellant does not have a *severe* physical impairment, and even if she did, the Doctor has indicated in the Assessor Report that the Appellant is independent in bathing (a component of the personal hygiene and self-care daily living activity) and doing dishes (an activity included under the basic housekeeping daily living activity).

Regarding the impact of the Appellant's severe mental impairment on her ability to do daily living activities, the Doctor identifies the following daily living activity restrictions in the Assessor Report:

- **Going to and from stores** (shopping for personal needs or using personal or public transportation daily living activity) – experiences severe anxiety when unassisted;
- **Making appropriate choices when shopping** (shopping for personal needs) – impulsive with making choices;
- **Paying rent and bills** (manage personal finances or make decisions about finances) – occasionally misses payments due to lack of organization;
- **Filling/refilling prescriptions** (manage personal medication) – lack of organization;
- **Taking medication as directed** ((manage personal medication) – occasionally forgets;
- **Relate to, communicate or interact with others effectively** – difficulty maintaining relationships, occasionally interrupts people, ability to deal appropriately with unexpected demands and to secure assistance from others are both a great challenge, and the Appellant has very disruptive functioning with both her immediate and extended social networks.

Information from the Doctor and the Appellant in the Submission confirms these assessments. The Panel notes that no information has been provided about the frequency and duration for all

but one of daily living activities that are restricted; the exception being the Appellant's social functioning restrictions, which, for the most part, are continuous. However, as mentioned above, the legislation requires that a PWD applicant have significant restrictions in at least two daily living activities, and those restrictions must be either continuous or periodic for extended periods.

Based on all the available evidence, the Panel finds that the Ministry reasonably determined that the Appellant does not have a *severe* impairment that, in the opinion of a prescribed professional, directly and significantly restricts her ability to perform two or more daily living activities, either continuously or periodically, for extended periods.

Help with Daily Living Activities

The Appellant's position is that she will require multiple medications, therapy, and support from doctors and her community for the rest of her life, and that she might benefit from the use of an assistance animal.

The Ministry's position is that it cannot be determined that the Appellant requires significant help with her daily living activities because it has not been demonstrated that daily living activities are significantly restricted.

Panel Decision

In the legislation, for a person to qualify as a PWD as a result of a severe physical or mental impairment, they must need help to perform daily living activities. Help with a daily living activity is defined as the need for the significant help or supervision of another person, an assistive device, or the services of an assistance animal.

As the Panel finds that the Appellant's impairments do not directly and significantly restrict her daily living activities continuously or periodically for extended periods, the Panel also finds that the Ministry reasonably determined it cannot be demonstrated that help is required with her daily living activities.

Conclusion

Based on all the evidence and legislation, the Panel finds that the Decision was reasonably supported by the evidence and was a reasonable application of the legislation. The Panel therefore confirms the Decision and the Appellant's appeal is not successful.

* * * *

The Panel recognizes that it is clear that the Appellant has a severe mental impairment, and that her ability to work might be impacted by her scoliosis.

However, legislation setting out the requirements for a PWD designation provides a specific list of "daily living activities" which does not include work-related tasks. The Panel suggests that the

Appellant may wish to contact the Ministry to ask about whether she might be eligible for designation as a person with persistent multiple barriers to employment (PPMB) or might qualify for any other work-related programs, and if so, how she would apply.

Appendix – Relevant Legislation

The criteria for being designated as a PWD are set out in Section 2 of the Act 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 Employment and Assistance for Persons with Disabilities Regulation 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 ...

The *Employment and Assistance Act* provides as follows:

Panels of the tribunal to conduct appeals

22(4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

APPEAL NUMBER 2023-0159

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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2023/07/29

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

2023/07/29

Print Name

Carla Tibbo

Signature of Member

Date (Year/Month/Day)

2023/07/29