

Part C - Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (Ministry) dated July 25, 2023, in which the Ministry determined that the Appellant was not eligible to receive disability assistance in July 2023 because her net income from employment insurance in May 2023 was more than the rate of disability assistance for a sole recipient.

Part D - Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (Regulation), sections 1(1)(g) and 24; Schedule A, sections 1(1), 2(1) and 4; Schedule B, sections 1 and 7

Employment and Assistance Act (EAA), s. 22(4) and 24(1) and (2)

Full text of the Legislation is in the Schedule of Legislation at the end of the Reasons.

Part E – Summary of Facts

The hearing took place by teleconference. The Appellant attended with a Parent as advocate.

Evidence at Reconsideration:

The Appellant is a sole recipient of disability assistance under the Employment and Assistance for Persons with Disabilities Act. The monthly disability assistance rate for a sole recipient is \$1,358.50, consisting of \$983.50 for a support allowance and \$375.00 for a shelter allowance.

The Appellant was forced to leave her employment in February 2023 because a supervisor had concerns about the Appellant's mental health. They told the Appellant that she could not return until she provided a doctor's note. The Appellant provided the note from her family doctor, but the supervisor would not accept it, and contacted the doctor to say that they should not have provided the note. The employer then required a longer form medical report, but the Appellant's doctor would not complete it because they were leaving their position in a week.

The Appellant had to find a new doctor to complete the employer's form, and meanwhile she applied for employment insurance ("EI") sickness benefits. There was a delay in processing and approving her application, so in May, 2023, she received a lump sum payment for 9 weeks of EI sickness benefits, at a rate of \$318.00 per week. The Appellant eventually found a doctor who could complete the longer form and returned to work.

On June 5, 2023, the Appellant reported the net EI payment of \$2,667.00 in her monthly report to the Ministry, under "all other income/money received". On June 14, 2023, the Ministry told the Appellant that she was not eligible for disability assistance in July 2023 because her unearned income from EI was more than the monthly disability assistance for a sole recipient.

Additional Evidence:

At the hearing, the Appellant's Parent stated:

- The Appellant's employer did not contact her to talk about concerns about the Appellant's mental health before they forced her to stop working, even though the Parent is listed with the employer as a resource and contact person because of the Appellant's disabilities.
- Due to her disabilities, the Appellant sometimes says inappropriate things. When

the Appellant said at work that she wished she could die, her supervisor forced the Appellant on an administrative leave of absence until she could provide a doctor's note to say she was fit to return to work.

- Being forced not to work increased the Appellant's risk of self harm. The Appellant struggles to have social contacts, and work is what keeps her functioning. When she cannot go to work, the Appellant just stays in her room and becomes depressed and suicidal.
- The Appellant's doctor knew that the Appellant needed to be able to keep working, for her mental health.
- After the Appellant found a new doctor, they wanted to see her a couple of times so they could get to know her before completing the long medical form.
- As a former Ministry employee, the Parent knows that there are situations where a benefit is required but is not available under the legislation, but a supervisor could go to a person in a higher position, who could change the outcome for that particular person.

In answer to a question from the Ministry, the Parent stated:

- The Appellant received disability assistance in the months before she received the lump sum payment of the EI benefit.

In answer to a question from the Panel, the Appellant stated that she was sent home from work on February 16 or 19, 2023, she applied for EI at the end of March 2023, and she returned to work on April 19, 2023.

Admissibility of Additional Evidence:

The Ministry did not object to the additional oral evidence of the Parent and the Appellant.

The Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under EAA s. 22(4).

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for disability assistance in July 2023 because the amount she received as a lump sum EI sickness benefit was more than the amount of disability assistance for a sole recipient.

Appellant's Position:

The Appellant acknowledges that the Ministry's decision is correct under the legislation. However, the Parent knows from her experience working for the Ministry that the Ministry can make exceptions in individual circumstances where the result is unfair. The Appellant was forced off work unfairly, and as a result, her mental health suffered significantly. There was an inordinate delay in receiving EI benefits, which were meant to help her through the time when she was not allowed to work. The Appellant maintains that the whole process has been unfair, causing further harm to the Appellant's mental health and resulting in her receiving half her usual income, through no fault of her own.

Further, the Appellant argues that, if EI had paid sickness benefits at \$296.33 per week over the 9 weeks that the Appellant was eligible to receive them, she would have had her income topped up by disability assistance. She also argued that the legislation should be changed to make EI sickness benefits exempt unearned income.

The Appellant says that the Ministry should review the Appellant's case and exercise discretion to waive the requirements of the legislation and override an unfair decision.

Ministry's Position:

The Ministry says that it is bound by the legislation and does not have discretion to exempt unearned income from the calculation of net income, except as set out in the Regulation. The Ministry says that EI sickness benefits are unearned income that is not exempt under the Regulation. As the Appellant received payment from EI in May, properly reported in June, in an amount that was more than the disability assistance for a sole recipient, she was not eligible to receive disability assistance in July 2023.

Panel Decision:

The Panel finds that the Ministry's reconsideration decision was a reasonable application of the legislation in the Appellant's circumstances.

The Appellant is a sole recipient of disability assistance. Disability assistance for a sole recipient is \$1,358.50. The Appellant received EI sick benefits in May 2023 in the net amount of \$2,667.00, which is more than the amount of disability assistance for a sole recipient. She properly reported receiving the lump sum EI benefit on the monthly report to the Ministry on June 5, 2023.

Under section 24 of the Regulation, the Ministry may provide disability assistance in an amount that is not more than the shelter and support allowance determined under Schedule A, minus the recipient's net income determined under Schedule B. Some unearned income is exempt from income under Schedule B, but EI sickness benefits are not exempt. Therefore, the Ministry determined that the Appellant was not eligible for disability assistance in July 2023 because her net income, which was the lump sum EI benefit, was more than the monthly disability assistance for a sole recipient.

The Appellant agrees that, under the legislation, the Ministry's reconsideration decision is correct. However, she argues that the Ministry should consider the Appellant's case individually and exercise discretion to pay the July disability assistance. She points out the unfairness of the Appellant's situation, starting when she was forced to stop working, and the negative effect it has had on her mental health. The Parent maintains that, in her experience working with the Ministry, someone in a position of authority could review the Appellant's case and make a different decision.

Under section 24 of the EAA, the Panel must determine if the decision being appealed is either reasonably supported by the evidence, or a reasonable application of the Act and Regulation in the Appellant's circumstances. Then the Panel can either confirm or rescind the decision. The Panel does not have jurisdiction or authority to refer cases to the Ministry to make a decision that falls outside the legislation. The legislation does not give the Ministry discretion to disregard non-exempt unearned income when calculating a recipient's net income under Schedule B of the Regulation.

Lastly, the Appellant argued that she was unfairly penalized because the Federal Government paid the EI benefit in a lump sum, rather than periodically as the benefit accrued, with the result that the Appellant lost an entire month of disability assistance. The Panel notes that, unless unearned income is exempt under section 1 of Schedule B of the Regulation, unearned income, including non-exempt EI benefits, is deducted from the Ministry's disability assistance dollar-for-dollar. EI sickness benefits are not exempt under section 1 of Schedule B. The lump sum payment exceeded the disability assistance rate by \$1,308.50. If the amount of EI benefits had been reported in smaller increments over more than one month, those amounts would have been deducted from the Appellant's disability allowance, and she may have received less overall. As it is, although it was an inadvertent

outcome, receiving the money in one lump sum has resulted in a benefit to the Appellant, as she has received more money from the combined benefits than if she had received and declared the EI income over more than one month.

Conclusion:

The Panel finds that the Ministry correctly determined that, as the Appellant received non-exempt EI benefits of \$2,667.00 in May 2023, reported in June 2023, she is not eligible for disability assistance in July 2023. The Panel finds that the Ministry's reconsideration decision is a reasonable application of the Act and Regulation in the Appellant's circumstances. The Appellant is not successful in the appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Employment and Assistance for Persons with Disabilities Regulation

Definitions

s. 1 (1) In this regulation:

"unearned income" means any income that is not earned income, and includes, without limitation, money or value received from any of the following: *[omit other sources listed subsections (a) to (f) and (h) to (y) that are not relevant to this appeal]*

(g) employment insurance;

Amount of disability assistance

s. 24 Disability 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.

Schedule A

Maximum amount of disability assistance before deduction of net income

s. 1 (1) Subject to this section and sections 3 and 6 to 8 of this Schedule, the amount of disability assistance referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of

- (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

Monthly support allowance

s. 2 (1) A monthly support allowance for the purpose of section 1 (a) is the sum of

- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
 - (a.1) Repealed. [B.C. Reg. 193/2017, s. 9 (a).]
 - (b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
1	Sole applicant / recipient and no dependent children	Applicant / recipient is a person with disabilities	\$983.50

Monthly shelter allowance

s. 4 (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who relies on the parent for the necessities of life and resides in the parent's place of residence for not less than 40% of each month;

"warrant" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit other than a family unit described in section 14.2 (1) of the Act is the greater of

- (a) the minimum set out in the following table for the family unit, and
- (b) the lesser of

- (i) the family unit's actual shelter costs, and
- (ii) the maximum set out in the following table for the family unit.

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$375

Schedule B

Net Income Calculation

(section 24 (b))

Deduction and exemption rules

s. 1 When calculating the net income of a family unit for the purposes of section 24 (b) [*amount of disability 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. 2, s. 2 (a).]
- (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 2 (c).]
- (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;
- (xii.1) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement and Supplementary Agreement approved by the Federal Court June 22, 2018 in Court File No. T-370-17, *Todd Edward Ross et al. v. Her Majesty the Queen*;
- (xii.2) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement approved by the Federal Court January 30, 2019 in Court File No. T-1068-14, *Raymond Michael Toth v. Her Majesty the Queen*;
- (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. 2, s. 11 (a).]
- (xvii) and (xvii.1) Repealed. [B.C. Reg. 99/2023, App. 2, s. 3 (a).]
- (xviii) financial assistance payments provided under Part 6 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) money paid by the government of British Columbia, under a written agreement, to a person with disabilities or to a trustee for the benefit of a person with disabilities to enable the person with disabilities to live in the community instead of in an institution;

(xxi) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]

(xxii) 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*;

(xxiii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;

(xxiv) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]

(xxv) 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;

(xxvi) a loan that is

(A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and

(B) received and used for the purposes set out in the business plan;

(xxvii) 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;

(xxviii) Repealed. [B.C. Reg. 148/2015, App. 2, s. 1 (a).]

(xxix) 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;

(xxx) a refund provided under Plan I as established under the Drug Plans Regulation;

(xxxi) 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;

(xxxii) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);

- (xxxii.1) a rental housing benefit provided under the *Rental Housing Benefit Act* (Canada);
- (xxxii.2) a dental benefit provided under the *Dental Benefit Act* (Canada);
- (xxxiii) 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;
- (xxxiv) money withdrawn from a registered disability savings plan;
- (xxxv) a working income tax benefit provided under the *Income Tax Act* (Canada);
- (xxxvi) Repealed. [B.C. Reg. 180/2010, s. 2 (b).]
- (xxxvii) the climate action dividend under section 13.02 of the *Income Tax Act*;
- (xxxviii) 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;
- (xxxix) 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;
- (xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;
- (xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;
- (xlii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;
- (xliii) 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;
- (xliv) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;
- (xlv) a BC early childhood tax benefit;
- (xlv.1) a BC child opportunity benefit;
- (xlv.2) a BC family benefit;

(xlvi) child support;

(xlvii) orphan's benefits under the *Canada Pension Plan Act* (Canada);

(xlviii) money or other value received, by will or as the result of intestacy, from the estate of a deceased person;

(xlix) gifts;

(l) education and training allowances, grants, bursaries or scholarships, other than student financial assistance;

(li) money withdrawn from a registered education savings plan;

(lii) compensation paid or payable under Division 5 [*Compensation in Relation to Death of Worker*] of Part 4 [*Compensation to Injured Workers and Their Dependants*] or section 225 [*compensation in relation to worker death before July 1, 1974*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 165 (1) of that Act;

(liii) 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;

(liv) 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;

(liv.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;

(liv.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;

(lv) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;

(lvi) payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;

(lvii) 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;

(lviii) and (lviv) Repealed. [B.C. Reg. 99/2023, App. 2, s. 3 (a).]

(lx) 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);

(lxi) money, or goods or services in kind, received or to be received by a participant in the Ministry of Social Development and Poverty Reduction's Work Experience Opportunities Grant program from a grant under the program;

(lxii) a rebate of all or part of a premium paid to the Insurance Corporation of British Columbia under the *Insurance (Vehicle) Act* and the plan operated under that Act;

(lxiii) an amount that is paid or payable, as a single payment or series of payments, as follows:

(A) the amount is paid or payable by a person who is or was a landlord, owner or manager, or a person who holds or held a similar position, in relation to leased, rented or licensed residential premises, whether or not the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act* applies to that premises;

(B) the amount is paid or payable to a person who is or was a tenant, lessee, licensee or occupant, or a person who has or had a similar right or permission to use the premises for residential purposes;

(C) the amount is paid or payable as full or partial compensation for loss of the residential use of the premises, including for eviction, relocation, demolition, temporary displacement during repair, renovation or redevelopment, or as an inducement to cease or suspend residential use;

(D) the amount is paid or payable under an enactment, a policy or a contract, or voluntarily or at the discretion of the person referred to in clause (A);

(lxiv) to (lxvii) Repealed. [B.C. Reg. 99/2023, App. 2, s. 3 (a).]

(lxviii) a voted support payment;

(lxix) money that is paid under or from an Indigenous financial settlement,

(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,

(b.1) if money is paid under or from an Indigenous financial settlement to an Indigenous governing body, the exemption under paragraph (a) (lxix) includes investment income earned on that money by the Indigenous governing body before it is distributed to a person,

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

(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 3, 7 and 8.

Exemptions — unearned income

s. 7 (0.1) In this section:

"disability-related cost" means a disability-related cost referred to in paragraph (a), (b), (c) or (e) of the definition of disability-related cost in section 12 (1) [*assets held in trust for person with disabilities*] 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 12 (1) of this regulation;

"intended registered disability savings plan or trust", in relation to a person referred to in section 12.1 (2) [*temporary exemption of assets for person with disabilities or person 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 Veterans Affairs Canada 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 10 [*asset limits*] of this regulation;

(d) a payment made from a trust to or on behalf of a person referred to in section 12 (1) [*assets held in trust for person with disabilities*] 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 12 (1) 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 12.1 (2) [*temporary exemption of assets for person with disabilities or person 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 12 (1) of this regulation;

(ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 12 (1) of this regulation;

(iii) money expended by a person referred to in section 12.1 (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.

Employment and Assistance Act

s. 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.

Decision of panel

s. 24 (1) After holding the hearing required under section 22 (3) [*panels of the tribunal to conduct appeals*], the panel must determine whether the decision being appealed is, as applicable,

(a) reasonably supported by the evidence, or

(b) a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

(2) For a decision referred to in subsection (1), the panel must

(a) confirm the decision if the panel finds that the decision being appealed is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the person appealing the decision, and

(b) otherwise, rescind the decision, and if the decision of the tribunal cannot be implemented without a further decision as to amount, refer the further decision back to the minister.

APPEAL NUMBER 2023-0226

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
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)
2023/08/21

Print Name
Joseph Rodgers

Signature of Member

Date (Year/Month/Day)
2023/08/21

Print Name
Gordon Thompson

Signature of Member

Date (Year/Month/Day)
2023/08/21