

Employment and Assistance Appeal Tribunal

Annual Report 2017/18



Our staff in Victoria



November 2018

The Honourable Shane Simpson
Minister of Social Development and Poverty Reduction

Dear Minister:

It is my pleasure to present the annual report for the Employment and Assistance Appeal Tribunal of British Columbia covering the period of October 1, 2017 to September 30, 2018. The report has been prepared in accordance with section 20(1) of the *Employment and Assistance Act*.



Emily C. Drown
Chair, Employment and Assistance Appeal Tribunal



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Our Mission

The mission of the Employment and Assistance Appeal Tribunal is to provide an independent and accessible appeal process that delivers timely and fair decisions reviewing Ministry of Social Development and Poverty Reduction determinations in regards to income and disability assistance and Ministry of Children and Family Development determinations in regards to child care subsidies.



Message from the Chair



I was appointed Chair of the Employment and Assistance Appeal Tribunal (the Tribunal) on June 30, 2018. I am now four months into this new position. I would like to thank my predecessor, Marilyn McNamara, for her dedication to

the Tribunal and her contribution to continuously improving the administrative justice sector of British Columbia's justice system.

In year's past, the Message from the Chair has been used to report on the goals for the year as outlined in the previous year's annual report. In this regard, I confirm that the case management system upgrade has moved to development. At the time of writing this, the Tribunal is days away from moving its new case management system from the testing environment to production. The new case management system will permit online filing as well as a citizen interface for uploading documentary evidence and will replace the legacy system presently in place.

The Tribunal's gradual move to an electronic process for appeals is well underway with members of the Tribunal now being required to use the electronic member portal for transmission of member communications and decisions. Now that members are familiar with the portal system and processes, the next step will be to have members access all appeal documentation electronically so that paper copies of appeal material are not required internally.

The Tribunal continued its recruitment efforts last year. However, despite several new appointments, we are still short of members in Northern and Interior BC. Ensuring oral in-person hearings can be held in or near appellant's communities in these regions remains a challenge. Increasing the diversity of Tribunal

members has been flagged as a priority. Individuals interested in serving as members of the Tribunal may apply directly from the Tribunal's website: eaat.ca/members/becoming-a-member.

Member workshops were not held during the reporting period. However, they are being prepared for spring 2019. Unlike previous years where these workshops were offered to members nearing the completion of their initial two year term to review practices and procedures and decision writing, workshops will be held for both members on their first term with the Tribunal as well as members that have been re-appointed. It is hoped that by doing so, more senior members will be able to act as workshop mentors while also expanding their administrative law knowledge and increasing their hearing room skills.

In addition to reporting on the goals that were outlined for the Tribunal in last year's annual report, I would like to thank the EAAT's staff and members for making the transition from one Chair to another a smooth process. Not anticipated in last year's annual report was the recruitment and hiring of the Tribunal's Director Policy and Appeal Management. This position with the Tribunal was vacant early in the calendar year until September 1, 2018 when the Tribunal's new Director commenced employment with us. With a new Chair and a full team in place, the Tribunal is poised to move forward with the human resources it needs.

Finally, I would like to mention how much I have enjoyed meeting with members and stakeholders of the Tribunal as I become more familiar with the work that we do. Through meetings of members where I have solicited feedback on our processes and procedures and through stakeholder consultation with provincial advocates, I am eager to hear how those most familiar with the work of the EAAT experience our appeal process.

Our Vision

The Employment and Assistance Appeal Tribunal will be known for:

- Providing an independent, ethical, community-based appeal process which is accessible and conducted in a fair, timely and respectful manner.
- Supporting members to provide quality service to promote public confidence in the integrity and competency of the Tribunal.
- Creating a healthy work environment that supports staff to provide quality service and to continually learn and develop knowledge, skills and expertise.



1. Who We Are and What We Do

The Employment and Assistance Appeal Tribunal

The Tribunal was established on September 30, 2002 to hear appeals of most types of decisions made by the Ministry of Social Development and Poverty Reduction under the income assistance and disability assistance programs. Since 2006, the Tribunal also hears appeals of decisions made by the Ministry of Children and Family Development under the child care subsidy program. The Tribunal provides a streamlined and efficient one-step appeal process and is independent of both ministries.

The Tribunal's authority is established under section 19(1) of the *Employment and Assistance Act*.

The Tribunal hears appeals of reconsideration decisions that refuse, reduce or discontinue income assistance, disability assistance or a supplement; reconsideration decisions regarding the amount of a supplement; and reconsideration decisions that refuse to grant hardship assistance under:

- **Section 17 of the *Employment and Assistance Act*, and**
- **Section 16 of the *Employment and Assistance for Persons with Disabilities Act*.**

The Tribunal also hears appeals of reconsideration decisions that refuse, reduce or discontinue a subsidy under:

- **Section 6 of the *Child Care Subsidy Act*.**

The Tribunal consists of a Chair, a Vice Chair, 11 staff and, at the time of writing this report, 116 members located throughout the province. (See Appendix A for a list of staff and Appendix B for a list of members.)

Tribunal Members

Members are appointed by the Minister of Social Development and Poverty Reduction after a merit-based process and consultation with the Tribunal Chair.

Candidates

To be considered for appointment to the Tribunal, a person must have an understanding of the essential elements for the conduct of a fair and objective hearing and the key aspects of the relevant legislation, among other requirements, as per section 82 of the *Employment and Assistance Regulation*.

Members commit to respect diversity and are expected to possess the ability to interpret and apply legislation, write decisions in a clear and concise manner, communicate clearly and effectively, and be proficient in the use of computers and common software applications.

The application process is conducted using an interactive online program that provides information to prospective members so that they can acquire and demonstrate the prescribed knowledge and skills prior to consideration for appointment.

The online process enables recruitment from a broader sector of the community and has enhanced the efficiency of the application process. References and criminal record checks are completed prior to a recommendation for appointment.



To ensure independence and that hearings are fair and just, a member must not:

- be or have been an employee of the Ministry of Social Development and Poverty Reduction or the Ministry of Children and Family Development in the past six months,
- be an employee of the provincial government,
- be a recipient of benefits under any of the acts for which the Tribunal has responsibility, or
- have any real or perceived interest in matters that come before the Tribunal.

NOTE: The Tribunal is recruiting new members, specifically from the more rural areas of the province. Anyone interested in being considered for appointment should refer to the Tribunal website, www.eaat.ca, or the Crown Agencies and Board Resourcing Office website, www.brdo.gov.bc.ca, for information on how to apply.

Members

Members must complete initial training before being appointed to hear an appeal with an experienced panel chair who serves as a mentor.

Once Members have attended a number of hearings and feel comfortable in the role of an adjudicator they are then assigned the role of panel chair. When assigned the role of panel chair, a mentor will be appointed to provide support and guidance. Further coaching occurs at the decision review stage to ensure that the decision meets the legislative requirements outlined in section 87(1) of the Employment and Assistance regulation.

Reappointment of Members

Members are appointed initially for a period of two years and may be reappointed for further terms of two or four years. Member performance is evaluated prior to making recommendations to the Minister of Social Development and Poverty Reduction for reappointment. The Competency Assessment, which clarifies the requirements and expectations of members, is used for coaching and evaluation. At the time of writing this report, 22 members were reappointed.

“Professionals are not created by hope or desire – but through a combination of some innate ability and study and experience.”

Toronto (City) v. CUPE, Local 79 (1982), 35 OR (2nd) 545 (Ont CA)

The Appeal Process

The Tribunal hears appeal of reconsideration decisions made by the Ministry of Social Development and Poverty Reduction in regards to income and disability assistance and the Ministry of Children and Family Development in regards to child care subsidies. A person must receive a reconsideration decision prior to requesting an appeal from the Tribunal. The appeal process, which is set out in the *Employment and Assistance Act* and Regulation, is the same regardless of which ministry made the reconsideration decision.

A person who applies for or receives assistance under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act* can request reconsideration of a decision that resulted in refusal, reduction or discontinuance of income or disability assistance, or a supplement; a decision regarding the amount of a supplement; or a decision that refuses to grant hardship assistance. More information about the Ministry of Social Development and Poverty Reduction's reconsideration process is available from the ministry's offices by calling 1-866-866-0800 or by visiting their website.

Number of Members by Region



Region 1	Vancouver Island	35
Region 2	Vancouver Coastal	34
Region 3	Fraser	15
Region 4	Interior	24
Region 5	Northern	10
TOTAL		118

A person who applies for or receives a child care subsidy can request reconsideration of a decision that resulted in the refusal, discontinuance or reduction of a child care subsidy. More information about the Ministry of Children and Family Development's reconsideration process can be obtained by calling 1-888-338-6622 and asking to speak with an adjudicator.

Those who are dissatisfied with the outcome of their request for reconsideration from either ministry can, in most cases, appeal to the Employment and Assistance Appeal Tribunal. They must submit a Notice of Appeal form to the Tribunal within seven business days of receiving their reconsideration decision.

Upon receipt of a completed Notice of Appeal, the Tribunal decides whether the matter can be appealed. Considerations include whether the Notice of Appeal was submitted within the prescribed timelines and whether the issue is appealable under the legislation.

If the matter is eligible for appeal, a panel of up to three members is appointed and the appeal is heard within 15 business days from the day that the completed Notice of Appeal was received by the Tribunal. Most hearings are conducted in person, usually in or near the appellant's community. Hearings can also take place by teleconference or, if both parties consent, in writing.

The panel reviews the ministry's reconsideration decision and the appeal record, considers any supporting evidence provided by the appellant or the ministry, and provides a written decision to the Tribunal, generally within 5 business days of the hearing. This time limit may be extended by no more than 10 additional business days if the Tribunal Chair is satisfied that the panel is making all reasonable efforts to provide its determination in a timely manner, and the best interests of the parties are served by the extension. The Tribunal mails a copy of the decision to the appellant and the ministry within 5 business days of receiving it from the panel.

NOTE: Summaries of certain Tribunal decisions from 2017/2018 are included in Section 4, "What Our Decisions Look Like." All of the Tribunal's decisions are available on the Tribunal's website: www.eaat.ca

“Those who are dissatisfied with the outcome of their request for reconsideration from either ministry can, in most cases, appeal to the Employment and Assistance Appeal Tribunal.”

The Appeal Process

If a person is dissatisfied with a reconsideration decision from the ministry, he or she may submit a Notice of Appeal to the Employment and Assistance Appeal Tribunal. There are two parties to an appeal: the person requesting an appeal (“appellant”) and the ministry.



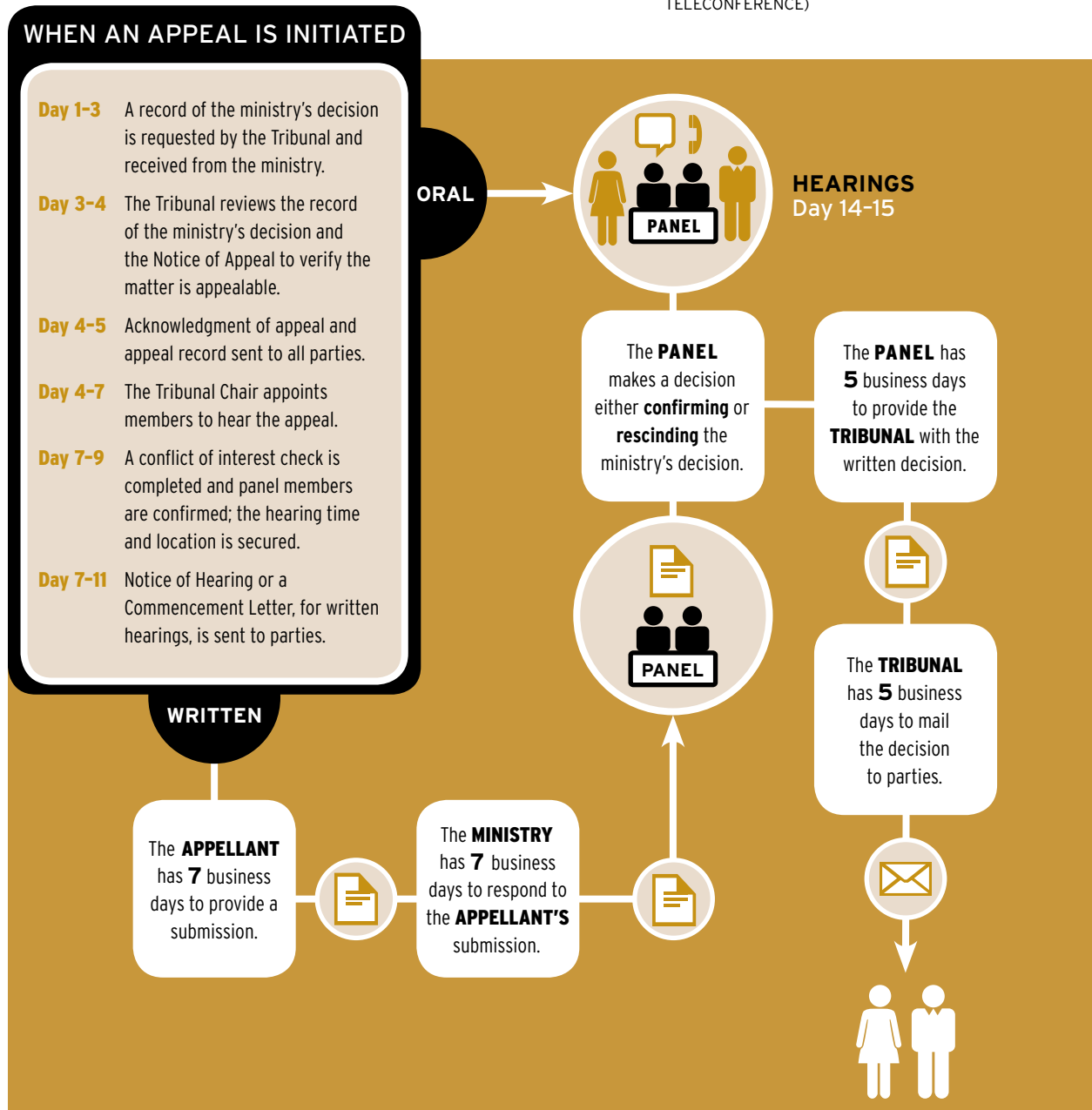
A person has **7** business days to submit a Notice of Appeal to the Tribunal with a choice of:



ORAL
(IN PERSON OR BY TELECONFERENCE)



WRITTEN



2. If You Want to Appeal

How to Appeal

If you are dissatisfied with the ministry's reconsideration decision, complete a Notice of Appeal form and submit it to the Employment and Assistance Appeal Tribunal within seven business days of receiving your reconsideration decision.

Type of Hearing

The Tribunal will attempt to accommodate your request for the type of hearing indicated on your Notice of Appeal: oral (in-person or by teleconference) or written. It is not uncommon for in-person hearings to have a member or a party attend by telephone.

Oral Hearing - In Person

If your hearing is proceeding as an oral hearing in person, the Tribunal will send you a Notice of Hearing, which you will receive at least two business days before the hearing is to take place, notifying you of the date, time and location of the hearing. Hearings will usually take place in or near your community. You have the right to call witnesses, make arguments in support of your appeal and present evidence that is in support of the information and records before the minister at reconsideration. You can ask a family member or friend to come with you to the hearing. You can also bring an interpreter. If required, the Tribunal will find an interpreter for you in advance of the hearing.

Oral Hearing - By Teleconference

If your hearing is proceeding as an oral hearing by teleconference, the Tribunal will send you a Notice of hearing, which you will receive at least two business days before the hearing is to take place. The Notice of Hearing will include the date and time of the hearing, as well as instructions for accessing the teleconference. As in an oral hearing in person, you have the right to call witnesses and make arguments in support of your appeal. Any evidence that you wish to present that is in support of the information and records before the minister at reconsideration should be submitted to the Tribunal in advance of the teleconference so that it can be distributed on your behalf. You can ask a family member, friend or advocate to provide support. If

required, the Tribunal will find an interpreter for you in advance of the hearing.

Written Hearing

If you request a written hearing, and the ministry consents, you will receive a letter that sets out the timelines for the written hearing process. You will have seven business days to provide a written submission that includes reasons and any additional information that is in support of your appeal. If you need more time to provide submissions, you must submit a request for an extension in writing to the Tribunal in advance of your submission due date.

On receiving your submission, the Tribunal will forward it to the ministry which has seven business days to respond. The Tribunal will then forward the appeal record, including the submissions, to the panel for review. You will receive a copy of the ministry's submission.

After the Hearing

The panel will provide the Tribunal Chair with a written decision within 5 business days of the conclusion of the hearing. Upon request of a panel chair, the Tribunal Chair may extend the time limit by no more than 10 additional days if satisfied that the panel is making all reasonable efforts to provide its determination in a timely manner, and the best interests of the parties are served by the extension. The panel will either confirm or rescind the ministry's decision. The Tribunal will mail a copy of the decision to the parties within 5 business days of receiving it from the panel. Decisions will not be provided over the telephone.

The Tribunal decision is final; however, you can file a petition in the BC Supreme Court asking a judge to review it. This is called a judicial review. Generally, this must be done within 60 days of the decision. If you have a concern about the conduct of an appeal or any interaction with the Tribunal, you can make a complaint in writing to the Tribunal Chair. As well, if you believe you were treated unfairly by the Tribunal you can contact the Office of the Ombudsperson.

This Tribunal brochure is included with every reconsideration decision denying the request.

This Tribunal brochure is sent to every appellant on acceptance of their Notice of Appeal.

How to Appeal...

**You only have
7 Business Days**

If you are dissatisfied with the ministry's reconsideration decision:

1. Complete and submit the Notice of Appeal form to the TRIBUNAL

MAIL: PO Box 9994 Stn Prov Govt
Victoria BC V8W 9R7

FAX: Toll free 1-877-356-9687
in Victoria 250-356-9687

EMAIL: info@eaat.ca

2. It must be received by the Tribunal within 7 business days of receiving your ministry reconsideration decision or you will lose your right of appeal.
3. You can send information to support your appeal to the Tribunal after your Notice of Appeal form has been submitted.

Notice of Appeal forms are available from the Tribunal and the ministry, as well as online.

**If you have questions, contact the
Employment and Assistance
Appeal Tribunal**

TEL: Toll free 1-866-557-0035
In Victoria 250-356-6374

WEB: www.eaat.ca

Employment and Assistance Appeal Tribunal

How to Prepare for Your Appeal



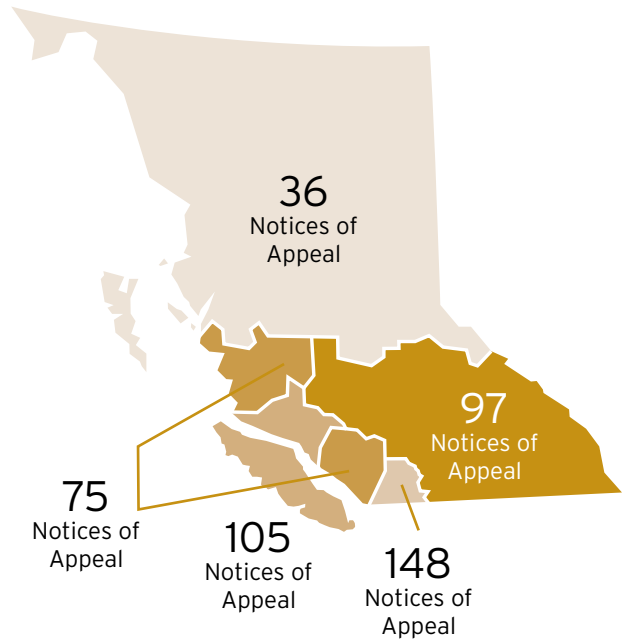
3. How We Did in 2017/2018

Meeting the timelines established by the legislation is one way of measuring the Tribunal’s performance. The Tribunal must hold a hearing with 15 business days of receiving a Notice of Appeal; a party must receive a notice of hearing at least 2 business days prior to the hearing; the panel must provide the decision to the Tribunal Chair within 5 business days of the hearing and the Tribunal must mail the decision to the parties with 5 business days of receiving it from the panel. The Tribunal met all the legislative timelines in this reporting period.

Summary of Appeals Statistics

Notices of Appeal Received	461
Appeal Files Assessed Not Within the Jurisdiction of the Tribunal	24
Appeals Dismissed by the Parties:	31
Appeals Carried Over:	35
(Appeals opened between 01/10/2017 and 30/09/2018 and not either closed, heard or rejected by 30/09/2018)	

Summary of Appeal Statistics and Notices of Appeal by Region



Region 1	Vancouver Island	105
Region 2	Vancouver Coastal	75
Region 3	Fraser	148
Region 4	Interior	97
Region 5	Northern	36
TOTAL		461

Notices of Appeal by Type

20 Business Days	2
Crisis Supplement	57
Disabilities - Persons with Disabilities-Designation	133
Disabilities - Persons with persistent multiple barriers (PPMB)	21
Eligibility - Deductions on income/earnings exemptions	5
Eligibility - Dependency/living Arrangements	3
Eligibility - Excess Assets	6
Eligibility - Excess Income	17
Eligibility - Failure to provide information/verification	7
Eligibility - Full Time Student	6
Eligibility - Identification	1
Eligibility - Residency	2
Eligibility - Shelter Allowance	4
Eligibility - Undeclared income/assets	6
Employment - Dismissed/quit/refused employment	3
Employment - Employment Plan/failure to look for work	20
Employment - Requirement for two year financial independence	3
Health Supplement - Hearing Aids	2
Health Supplement - Orthoses	7
Health Supplements - Dental supplement	13
Health Supplements - Diet/natal supplements	2
Health Supplements - MSP/Other health supplements	1
Health Supplements - Medical Equipment	25
Health Supplements - Medical Supplies	6
Health Supplements - Medical Transportation	10
Health Supplements - Monthly Nutritional Supplement (MNS)	24
Health Supplements - Short-term nutritional supplement Products	3
Health Supplements - Therapies	4
Moving Supplement	20
Other - Child care	8
Other - Family maintenance	1
Other - Hardship	1
Other - Other	38

Appeal Outcomes

The total number of Notices of Appeal received differs from the number of appeals closed because of files carried over from the previous year or into the following year and various other factors. The number of decisions confirmed and rescinded may not equal the number of appeals heard for the same reasons. The following statistics relate to appeal files that were closed in this reporting period

Ministry of Social Development and Poverty Reduction

Appeals heard	395
Decisions confirmed	357
Decisions rescinded	38

Ministry of Children and Family Development

Appeals heard	8
Decisions confirmed	7
Decisions rescinded	1

Judicial Review Outcomes

The Tribunal received four petitions for judicial review in the reporting period. Two petitions were settled and discontinued and one was dismissed without reasons. The final petition resulted in a decision which is summarized below.

Underwood v. Employment and Assistance Appeal Tribunal, 2018 BCSC 1072

This was a judicial review of a Tribunal decision upholding a ministry determination that the appellant did not fulfill the eligibility requirements to obtain a person with disability designation. Specifically, the Tribunal found that the ministry's decision that the appellant was not directly and significantly restricted either continuously or periodically for extended periods in performing "daily living activities" - as required by the *Employment and Assistance for Persons with Disabilities Act* - was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. ("Daily living activities" are a certain set of activities defined in the Employment and Assistance for Persons with Disabilities Regulation).

In the judicial review, the appellant made three arguments: (1) that the Tribunal did not follow its own procedure and failed to consider relevant evidence; (2) that the Tribunal made a patently unreasonable decision with respect to his use of an assistance device; and (3) that the Tribunal made a patently unreasonable decision in upholding the ministry's determination that the appellant's daily living activities were not significantly restricted. The British Columbia Supreme Court dismissed the appellant's petition and upheld the Tribunal's decision. The Court found that the Tribunal:

- (1) Did follow its own procedure in the determination of the appellant's appeal. The Tribunal reviewed the submissions entered by the Ministry and specifically referred to the medical evidence of the appellant;
- (2) Did not make a patently unreasonable decision with respect to the use of an assistance device. The Tribunal stated "quite clearly" that it did not conclude that the appellant did not require assistance devices but rather that any finding on this criterion required the pre-condition of significant restriction in daily living activities to be satisfied;
- (3) Did not make a patently unreasonable decision that the appellant's daily living activities were not significantly restricted. The medical evidence did not support the appellant's position that more than one daily living activity was restricted. Notably, the Court stated, "The Tribunal gave detailed reasons which outlined the procedural history of [the appellant's] petition, the evidence available to the Tribunal on appeal, and the conclusions reached after the consideration of this evidence. ...[T]he Tribunal engaged in a clear analysis of whether or not [the appellant's] daily living activities were restricted..."



4. What Our Decisions Look Like

CASE 1

Person with Disabilities Designation

Ministry Decision

The Ministry of Social Development and Poverty Reduction (Ministry) determined that the appellant was not eligible for designation as a person with disabilities (PWD) under section 2 of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA). The Ministry found that the appellant did not meet the following criteria:

- (1) The appellant has a severe mental or physical impairment;
- (2) The appellant's impairment, in the opinion of a prescribed professional, directly and significantly restricts his ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and
- (3) As a result of the restrictions caused by the impairment, the appellant requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform DLA.

Summary of Facts

To be eligible for disability assistance, a person must be designated as a PWD. The EAPWDA, in section 2, sets out the criteria required to obtain a PWD designation. The Minister must be satisfied that the person, who has reached 18 years of age, has a severe mental or physical impairment that in the opinion of a medical practitioner is likely to continue for at least 2 years. Further, the severe impairment, in the opinion of a prescribed professional, must directly and significantly restrict the person's ability to perform DLA either continuously or periodically for extended periods with the result that the person requires help to perform these activities. Finally, 'requiring help' is defined to mean that the person requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal.

Prior to the appeal, the Ministry had information from the appellant's medical practitioner which stated that the appellant suffered from several physical impairments and that the appellant had reported a mood disorder pre-existent to a severe trauma he had sustained. However, although the medical practitioner was aware of the appellant's mood disorder, she was unable to make a statement as to the degree of his impairment and reported a "moderate impact" on the appellant's emotion, attention/concentration, memory and motivation. The evidence demonstrated that the medical practitioner was taking over the practice of a previous medical practitioner and had limited contact with the appellant.

Tribunal Decision - The Tribunal rescinded the Ministry's decision.

Reasons for Decision

The issue on appeal was whether the Ministry's decision was reasonably supported by the evidence or a reasonable application of section 2 EAPWDA in the circumstances of the appellant.

Prior to the hearing, the appellant filed two packages with the Tribunal which were accepted as evidence pursuant to section 22(4) of the *Employment and Assistance Act*. Section 22(4) allows the Tribunal to accept as evidence: (a) the information and records before the Ministry when its decision was made; and (b) oral or written testimony in support of the information before the Ministry when its decision was made.

The packages admitted as evidence included more thorough and recently conducted assessments of the appellant by medical practitioners and a prescribed professional. In combination, the admitted evidence established a diagnosis by two medical practitioners that the appellant suffered from a mental impairment. Further, the prescribed professional provided that the appellant suffered from severe impairment of cognitive and emotional functioning which restricted the appellant's DLA of preparing meals, shopping for personal goods (including groceries) and social functioning. Finally, the prescribed professional provided that the appellant required the significant help or supervision of his spouse in order to cope with the continuous or periodic (for extended periods) restrictions in performing the DLA noted above as a result of his mental impairment.

Based on the entirety of the evidence as admitted, the panel concluded that the Ministry was unreasonable in determining that the appellant did not suffer from a severe mental impairment that significantly restricted his ability to perform daily living activities and required the significant help or supervision of another person. Accordingly, the decision was rescinded.



CASE 2**Crisis supplement for new furnace****Ministry Decision**

The Ministry of Social Development and Poverty Reduction (Ministry) denied the appellant's request for a crisis supplement to cover the cost of a new furnace. The Ministry was not satisfied that the appellant's need for a new furnace was an unexpected expense or would result in imminent danger to the appellant if the supplement was not provided as required by section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

Summary of Facts

Section 57 of the EAPWDR authorizes the Minister to provide a crisis supplement to a family unit that is eligible for disability assistance where: (i) the family unit requires the supplement to meet an unexpected expense; (ii) the family unit has no resources available to meet the expense; and (iii) failure to meet the expense will result in imminent danger to the physical health of any person in the family unit.

The appellant was eligible for disability assistance and therefore eligible for a crisis supplement if the criteria of section 57 EAPWDR were met. In 2016, the appellant's third party service provider notified the ministry that the appellant's furnace was broken and unsafe to use. The Ministry requested quotes for the repairs and information to confirm that repairs were needed. The Ministry did not receive any further information. Twice again in 2017, the appellant's third party service provider advised the Ministry that the furnace was shut down due to rusted pipes. On both occasions, the Ministry requested quotes for repairs to the furnace but received no further information. In 2018, the third party service provider made a request on behalf of the appellant for a crisis supplement.

The Ministry denied the appellant's request because the expense was not unexpected and would not result in imminent danger to the physical health of a person in the appellant's family unit.

Tribunal Decision - The Tribunal confirmed the Ministry's decision.

Reasons for Decision

The Panel found that, given the need for a new furnace or furnace repairs had been ongoing for a number of years before the application for a crisis supplement, the need to obtain a new furnace or repairs could not be said to be "unexpected" as required by paragraph 57(1)(a) EAPWDR. The Panel observed that while the appellant argued that he should not be expected to live without a furnace, the fact was that he had lived without a furnace for at least over a year.

The Panel found that the Ministry's conclusion that the appellant (or a member of the family unit) would not suffer imminent danger to be reasonable in these circumstances. The Panel found that the Ministry had made its decision at a time of year when a furnace is not necessary and that the appellant had used blankets and electric heaters to keep warm in winter months. Finally, in the absence of medical evidence, the Panel was unable to find as fact that the appellant or a family member would suffer imminent danger to their physical health.

As a result, the Panel found that the Ministry's decision to deny the crisis supplement was reasonably supported on the evidence and/or a reasonable application of section 57 EAPWDR in the circumstances of the appellant as per section 24 of the *Employment and Assistance Act*.

CASE 3**Child Care Subsidy****Ministry Decision**

The Ministry of Children and Family Development (Ministry) found that the appellant was not eligible to receive a child care subsidy (CCS) for the months of September to December 2017 because her application was dated January 21, 2018 and according to section 13 of the *Child Care Subsidy Regulations* (CCSR) a CCS may only be provided from the first day of the month in which the parent completes an application unless there was an administrative error.

Summary of Facts

The appellant had been receiving a CCS for her child until May 2017. In June 2017, the appellant informed the Ministry that she was changing child care providers. The Ministry instructed the appellant to submit a new Child Care Arrangement form in order to qualify for a CCS for the new provider. The appellant submitted the form in January 2018 in which the appellant stated that her child was attending the new provider since September 2017. It appeared that from the period May 2017 to January 2018 the appellant was seeking a medical report in order to qualify for a CCS as a person with disabilities.

Tribunal Decision - The Tribunal confirmed the Ministry's decision.

Reasons for Decision

The issue on appeal was whether the Ministry's decision that the appellant was not eligible for a CCS from September to December 2017 because her application was dated January 2018 was reasonably supported by the evidence or a reasonable application of section 13 of the CCSR in the circumstances of the appellant.

Section 13 of the CCSR provides that a CCS may be paid from the first day of the month in which the parent completes an application for a CCS. The Panel found that there was no dispute that the application was dated January 2018. The Panel noted that if the appellant had received incorrect advice from the Ministry that might constitute an administrative error which would provide for an earlier eligibility date for the CCS. However, there was no evidence before the Panel that incorrect advice was provided, or any other evidence of an administrative error.

The Panel found that section 13 did not provide for any discretion by the Ministry and accordingly confirmed the Ministry's decision.

Our Organizational Values



In carrying out its mission, the Employment and Assistance Appeal Tribunal is guided by the following values:

- Fairness
- Impartiality
- Excellence
- Efficiency
- Timeliness
- Accessibility
- Accountability
- Transparency
- Independence

5. Looking Forward

These are exciting times at the Tribunal. The combination of new staff members in several positions along with the expertise of many seasoned staff has resulted in a new energy to improve the Tribunal without sacrificing its excellent track record.

As has been reported previously, the Tribunal is now in the final stages of user acceptance testing for an electronic case management system (CMS). The new CMS will allow for appellants and their advocates/representatives to file appeals and appeal-related material online. Not only should this improve access to justice, but will hopefully help the Tribunal reduce its carbon footprint.

As noted in the Message from the Chair, the Tribunal is committed to strengthening stakeholder relations. The Chair has already begun outreach efforts with the Tribunal's members through "Member Meet & Greets" on Vancouver Island and the Lower Mainland. Meet & Greets are currently being planned for the Tribunal's other Regions. Outreach efforts with the advocate community (representatives of appellants) have also already commenced. The Chair has had teleconferences with advocates monthly and spoke at the Law Foundation's Advocate Training Conference in October. Further outreach efforts with the advocate community are being planned. Finally, the Tribunal maintains an appropriate relationship with the Ministry of Social Development and Poverty Reduction and the Ministry of Children and Family Development recognizing the Tribunal's status as an impartial Tribunal and an arms-length, independent public agency.

In order to improve the quality of submissions to and the decisions of the Tribunal, the Tribunal is proud to announce that it intends to work with Lexum to implement its Decisia product - a fully searchable decision database. Lexum provides decision databases

for the Supreme Court of Canada, the Canadian Legal Information Institute (CanLII) and British Columbia's Civil Resolution Tribunal, among others.

It can often be forgotten that the subject matter of Tribunal's decisions - income assistance, disability assistance, hardship assistance, etc. - arise from difficult and challenging circumstances. In recognition of this, the Tribunal intends to improve its existing mental health training for its staff and members. Further, Tribunal staff and members will receive training in de-escalating potentially violent situations.

The Tribunal's staff and members deal with appeals from across British Columbia. To ensure that staff and members are aware of the many differences among British Columbians - differences which make this Province such a wonderful place to live - cultural competency training will be offered to staff and members.

The Tribunal continues to seek members in all areas of British Columbia, especially in the Interior, Okanagan and Northern regions of the province. A recruitment drive is planned for early 2019. Individuals with clear writing skills and experience analyzing written material are encouraged to apply via the Tribunal's website.

Finally, this annual report would not be complete without recognizing the Tribunal's role in the Province's reconciliation efforts with the Indigenous peoples of British Columbia. The Tribunal intends to reach out to Indigenous communities with a view to ensuring the Indigenous experience with the Tribunal is one that fosters reconciliation and does not repeat past injustices.

Appendix A: Tribunal Staff

(As of September 30, 2018)



Back row: MARIA GOLUZA, STEVEN PAL, NICHOLAS PAETZ, AND MICHAEL DORIS.

Middle row: LISA LEE, AMY POWER, PEARL JUDGE, AND EMILY DROWN.

Front row: MUNMUN BHATI, KENDRA HULL, AND GLENNA MCEWEN.

Not pictured: KYRSTIN KERR

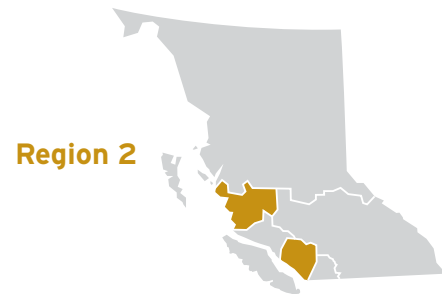
Appendix B: Tribunal Members

(As of September 30, 2018)

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Region 1

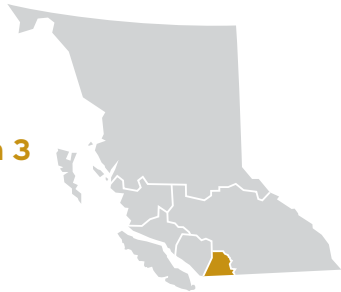


Region 2

Kent Ashby	Pat Munroe
Angie Blake	Wesley Nelson
Monika Brandstaetter	Jane Nielsen
Sean Carberry	Margarita Papenbrock
Gurjit Chaplin	Marnee Pearce
Joan Cotie	Glenn Prior
Emily Drown	Anne Richmond
Robert Fenske	Richard Roberts
Honey Forbes	Joseph Rodgers
Carl Gorham	Marlene Russo
Marcus Hadley	Charles Schellinck
Lowell Johnson	Jennifer Smith
Jim Jones	Donald Stedeford
Keith Lacroix	Donald Storch
Melissa McLean	Barbara Thompson
Donald McLeod	Carman Thompson
Trevor Morley	Lynn Twardosky
Inge Morrissey	

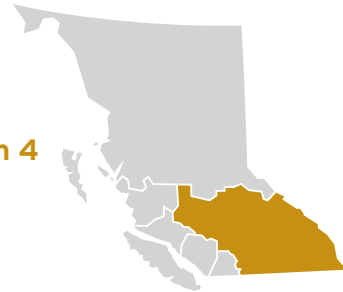
Anil Aggarwal	Tajdin Mitha
Brenda Austin	Barbara Murray
Karima Bawa	Rabinder Nijjar
Jeffrey Chambers	Diane O'Connor
Sandra Chan	Kim Read
Daniel Chow	David Roberts
Susanne Dahlin	Adam Rollins
Carmelle Dieleman	Adam Shee
Nancy Eidsvik	Connie Simonsen
Susan Ferguson	Nancy South
Kathy Grant	Carla Tibbo
Shirley Heafey	Roy Wares
Barbara Insley	Katherine Wellburn
Margaret Koren	Edward Wong
Stephanie Korour	Marcus Wong
Susan Mackey	Reece Wrightman
Perry Mazzone	
Robert McDowell	

Region 3



Tina Ahnert	David Handelman
Jennifer Armstrong	Susan Johnston
Kulwant Bal	Neena Keram
Fazal Bhimji	Kim Polowek
Vivienne Chin	Jeremy Sibley
Simon Clews	Rosalie Turcotte
Carlos Garcia	Sandra Walters
Sanjay Gulati	

Region 4



Sarah Bijl	Deborah Kinnear
Joan Bubbs	Raymond Kirzinger
Jeanne Byron	Janet Lingford
Patrick Cooper	Jean Lorenz
Lisa Denham	Wendy Marten
Mel Donhauser	Chris McEwan
Allison Edgar	Marilyn Mellis
Lauren Forsyth	John Pickford
Bill Haire	Wayne Reeves
Robert Kelly	William Reid
David Kendrick	Ronald Terlesky
Laurie Kent	Helene Walford

Region 5



Kevin Ash	Dawn Martin
Rick Bizarro	Linda Pierre
Zelda Craig	Linda Smerychynski
Keith Goldsworthy	Meghan Wallace
Lorraine Grant	Janet Ward

Appendix C: Budget

(October 1, 2017 - September 30, 2018)

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The provincial government's fiscal year begins April 1st. The Tribunal's reporting year begins October 1st. The budget table presents relevant reporting periods which span the two fiscal years.

OPERATING BUDGET	APRIL 2017–MARCH 2018	APRIL 2018–MARCH 2019
Salaries and Benefits	\$ 943,000	\$ 962,000
Boards/Commissions/Courts - Fees and Expenses	450,000	400,000
Public Servant Travel	22,000	18,000
Professional Services: Operational	134,000	127,000
Information Systems: Operating	12,000	68,000
Office and Business Expenses	130,000	120,000
Statutory Advertising and Publications	5,000	5,000
TOTAL	\$ 1,696,000	\$ 1,700,000

How to Contact Us

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