

Appeal Number 2025-0170

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction ("Ministry") dated April 23, 2025. The Ministry decided that the Appellant was not eligible for a shelter allowance increase from August 2023 to September 2024 because the Ministry was only notified of the Appellant's current (increased) shelter costs in October 2024. Pursuant to the Employment and Assistance for Persons with Disabilities Regulation section 23 (5), the Appellant can only begin to receive the increased shelter allowance from the month in which it was requested. Since the request came to the Ministry in October 2024, the increase must begin from October 2024.

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"), section 23 (5)

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

Part E – Summary of Facts

Evidence at Reconsideration

- March 21, 2017 letter on My Self Serve from the Appellant's advocate to the Ministry indicating that the Appellant will pay \$500.00 per month for rent.
- May 24, 2017 letter on My Self Serve from the Ministry to the Appellant indicating that the Appellant's advocate changed the monthly fee from room and board to rent, therefore a new shelter information form must be submitted by May 30, 2017. There is a note from the advocate on this letter indicating the following:
 1. the Ministry advised her to change the shelter information form from room and board to rent.
 2. The advocate stated that she was told that only \$375.00 would be paid out for shelter so she rounded the figure to \$400.00.
 3. Though the original amount was indicated as \$500.00, the Ministry did not consider this information in its Reconsideration Decision.
 4. The Appellant has been paying \$500.00 since 2017 despite the Ministry only providing \$375.00.
 5. The Appellant did not receive notification of the increase in shelter allowance.
- Shelter Information form dated October 18, 2024 which indicated that the Appellant's rent is \$500.00 with a start date of August 1, 2023.
- Shelter Information form dated May 24, 2017 which indicated that the Appellant's rent is \$400.00 with a start date of June 1, 2017.
- Shelter Information form dated March 21, 2017 which indicated that the Appellant's room and board is \$500.00.
- Request for Reconsideration dated April 5, 2025 which indicated the following:
 1. They originally submitted the Shelter Information form on My Self Serve indicating \$500/month for shelter costs. But at the time only \$375/month was allowed so they had to resubmit the form to indicate the lesser amount, although rounded up to \$400/month.
 2. On August 1, 2023, the Appellant's shelter cost increased from \$375 to \$400, as they had inputted \$400/month in the Shelter Information Form [in 2017].
 3. The Appellant never received the letter dated July 7, 2023 about the maximum shelter allowance being raised to \$500/month, on My Self Serve or by mail. If they had, they would have increased the shelter cost to \$500/month in July 2023.
 4. The advocate only saw the letter dated July 7, 2023 on March 20, 2025, as a Ministry worker had attached it in My Self Serve.
 5. The worker said that it would have been sent on My Self Serve or it would have been mailed.
 6. In previous calls to the Ministry, the worker said that even if they did not receive the letter through My Self Serve or mail, the Appellant should have watched the news to find out about this or checked the government website. This is not a

requirement nor expectation of those on disability, and thus it is not reasonable to expect anyone to learn this information by watching the news or looking at the government website. This kind of vital information should be sent by mail and through My Self Serve.

7. The Appellant has been paying \$500/month rent since 2017 and should have received this crucial information in July 2023. If the Appellant did, they would have submitted a new Shelter Information form showing they were paying \$500/month back in July 2023.

Evidence on Appeal

A Notice of Appeal was submitted on May 11, 2025. In it the Appellant's advocate stated that:

- The Appellant never received notification in July 2023 that there was an increase in shelter allowance either by mail or My Self Serve.
- The Ministry made an administrative error by not notifying the Appellant of the increase to shelter allowance.
- If the Appellant was notified in July 2023, they would have immediately submitted a new shelter information form.
- Since the administrative error was the Ministry's, the Appellant should receive a shelter allowance back payment from August 2023 to September 2024.

A letter accompanying the Notice of Appeal reiterated the information contained in the Request for Reconsideration

Evidence Prior to the Hearing

Prior to the hearing, the Appellant submitted the following evidence:

- A copy of a letter dated July 7, 2023 in which the Ministry notified its clients of an increase in the shelter allowance from \$375.00 to \$500.00 per month for a single person and from \$575.00 to \$695.00 per month for a two-person family. The letter also stated that if one's shelter costs have not increased no action is required. However, if one's shelter costs have increased on or after August 1, 2023, one must contact the Ministry to update their shelter expenses and provide an updated shelter information form.
- A screenshot of the Appellant's My Self Serve account to demonstrate that no notification was sent on July 7, 2023 to notify the Appellant of the shelter allowance increase.
- An email dated May 25, 2025 in which the advocate reiterated the information contained in the Notice of Appeal and the Request for Reconsideration. The advocate also added the following:
 1. "As notices were and have always been sent through My Self Serve, I would have expected the same of the rental increase back in July 2023. I/we relied on My Self Serve as all the other notices were sent there. I/we were very confused as to why it wasn't sent through My Self Serve as mail can get lost and/or people can make

administrative errors. As stated before, we were also not notified of the maximum shelter allowance by mail".

2. "I will also add that in August 2023 [Appellant's] shelter allowance increased by \$25, from \$375 to \$400 and we didn't know why that happened. It was only recently I learned that it was due to the final Shelter Information form submitted on May 24, 2017 indicating \$400/month rent which we had rounded up from the allowed \$375/month at the time. The ministry was able to increase it to \$400/month in August 2023 due to the form originally submitted in My Self Serve".

Admissibility of Additional Information

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

The Panel found that the Appellant's submissions at appeal and prior to the hearing provided additional detail or disclosed evidence that provides a full and fair disclosure of all matters related to the decision under appeal. The Panel has admitted this new evidence as in accordance with s. 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The purpose of the Panel is to review and assess whether the Ministry's Reconsideration Decision satisfied a standard, or benchmark, of reasonableness - even if the Panel might disagree with the outcome. The standard applied is whether the applicable laws were reasonably applied and whether the evidence was also reasonably applied in the circumstances at appeal.

The issue on appeal is whether the Ministry's Reconsideration Decision, which found that the Appellant is not eligible for a shelter allowance top-up from August 2023 to September 2024, was reasonably supported by the evidence or was a reasonable application of the legislation.

The Appellant's Position

The Appellant submitted that they were not notified in July 2023 that there was an increase in the shelter amount provided to those with PWD designation. They did not receive notification either electronically on My Self Serve or by mail. The Appellant argued that the original shelter information provided on March 21, 2017 indicated that room and board was \$500.00 so the Ministry was aware of the shelter costs. The Appellant has been paying \$500.00 for rent since then. The Appellant alleges that the Ministry made an administrative error by failing to notify the Appellant of the shelter increase in July 2023 and now the Ministry ought to provide this increased rate to the Appellant from August 2023 to September 2024 because it was aware that the rent amount was \$500.00.

The Ministry's Position

The Ministry asserted that there were no administrative errors made by the Ministry regarding the amount of shelter the Appellant had received from August 2023 to September 2024. All clients were sent a notification of the shelter increase on July 7, 2023. The Ministry also stated that it was not aware that there was a change in the Appellant's shelter costs from \$400.00 to \$500.00 until an updated shelter form was submitted on October 18, 2024. At that time, the Appellant was issued a top up of \$100 for the shelter allowance beginning October 2024, the same month in which the request was received. The Ministry determined that the Appellant received what they were eligible for in accordance with subsection 23(5) of the Regulation and found that the Appellant was not eligible for a top up to the shelter allowance from August 2023 to September 2024.

Panel Decision

The Appellant submitted that on March 21, 2017 they informed the Ministry that their shelter costs were \$500.00 per month. The Panel finds that the Appellant provided updated information in May 2017 which indicated that the Appellant's shelter costs were \$400.00. The evidence demonstrates that in August 2023 the Ministry increased the Appellant's shelter costs from \$375.00 to \$400.00 and this entitlement was based on the most update information the Ministry had at the time.

The Panel notes that the evidence demonstrates that from 2017 to 2024 there was no information provided to the Ministry in regard to any shelter cost increase the Appellant incurred. The Panel notes that the legislation is clear that a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested. The evidence demonstrates that the Appellant only notified the Ministry of an increase in shelter costs in October 2024 and the Appellant has been receiving the increased amount (\$500.00) since then. Though the Panel empathises with the Appellant's situation, the Panel notes that the Appellant had the responsibility to provide the Ministry with accurate information from the beginning. The Ministry is not responsible for the Appellant's decision to change the shelter cost amount from \$500.00 to \$400.00.

The Appellant submitted that they were not notified of a rate increase as they did not receive notification via mail or the My Self Serve portal. The Appellant provided a screenshot of their My Self Serve account to demonstrate this. The Appellant submitted that this constitutes an error on the Ministry's part which should be rectified with retroactive payments.

The Panel notes that the Ministry did notify the public via the government website and by sending out July 7, 2023 letter or notification. However, the majority of the Panel finds that the legislation does not specify that the Ministry is required to inform each client individually or the public at large of any changes to the legislation. Moreover, the legislation does require each client to inform the Ministry of any changes to their circumstances as they relate to the Ministry. Section 29 of the Regulation states that if there is a change in a family unit's circumstances that is not disclosed in a report submitted, and if the change could affect the eligibility of the family unit to receive disability assistance or hardship assistance, a report must be submitted by the fifth day of the calendar month following the calendar month in which the change occurs. The evidence demonstrates that the Appellant did not report any changes to shelter costs until October 2024 and therefore they are eligible from this date.

The Panel's role is to weigh the evidence against the legislation to determine if the Ministry's decision is reasonable. The Panel finds that there is no legislative provision which allows the Ministry to retroactively pay out shelter costs.

Upon reviewing the evidence, the Panel finds that the Ministry was reasonable in its determination that the Appellant is not eligible for a shelter costs top-up from August 2023 to September 2024 pursuant to section 23(5) of the Regulation.

Conclusion

The Panel finds that the Ministry's Reconsideration Decision, which found that the Appellant was not eligible for a shelter top up from August 2023 to September 2024, was reasonably

supported by the evidence and is a reasonable application of the legislation. The Panel confirms the decision. The Appellant is not successful on appeal.

Concurring Opinion by one panel member

The concurring Panel member agrees with the majority panel's decision to confirm the Ministry's Reconsideration Decision. However, the concurring Panel member takes a different view on certain aspects of the majority panel's reasonings, namely, whether section 29 of the Regulation is engaged in the present case and whether the Ministry is required to inform the assistance recipients of legislative changes.

In the Appellant's written communication with the Ministry, the Appellant's advocate wrote: "Note, the original request I sent in was for \$500/Month room and board which I've included here as evidence, then someone contacted me and told me I had to re-submit and indicate pay rent, not room and board as highlighted in red following and that it was only \$375/month allowed. I submitted it but rounded up to \$400/month...". In their written submissions, the Appellant's advocate wrote: "Despite [the Appellant's] form stating \$400 as the shelter allowance from May 2017 to October 2024, they have been paying \$500 for shelter since 2017." Further, in their email of May 25, 2025, the Appellant's advocate wrote: "Had we received the Rent Increase Letter in July 2023 (or specifically on July 7, 2023) through My Self Serve, we would have submitted the updated Shelter Information form (HR3037) indicating \$500/month rent...".

The Appellant's case is that they have always been paying \$500/month for rent since 2017. Shortly after they submitted their shelter information form in March 2017, they contacted the Ministry and learnt that the maximum shelter allowance was \$375. The Appellant rounded up the figure to \$400 and re-submitted their shelter information form in May 2017. The Appellant's advocate stated that they were not aware of the shelter rate increase and that had they received the Ministry's notification on July 7, 2023, they would have submitted an updated shelter information form.

Section 29 of the Regulation states that if there is a change in a family unit's circumstances that is not disclosed in a report submitted, and if the change could affect the eligibility of the family unit to receive disability assistance or hardship assistance, a report must be submitted by the fifth day of the calendar month following the calendar month in which the change occurs.

It does not appear to the concurring Panel member that there was a change in the Appellant's circumstances which affected their eligibility to receive disability assistance or hardship assistance thereby triggering the duty to submit a report under section 29 of the Regulation. Rather, the change was the legislative change relating to shelter allowance. As stated in the Ministry's notification of July 7, 2023, for recipients whose shelter expenses have increased after

August 1, 2023, what they need to do is to provide the Ministry with updated documentation to confirm their updated shelter expenses such as tenancy agreement, notice of rent increase, copies of utility bills, rent receipt or completed shelter information form. They were not asked to submit a report under section 29 of the Regulation.

The Appellant claimed that they have always been paying \$500 for rent since 2017. The concurring Panel member takes the view that although the maximum shelter allowance at that time was \$375, the Appellant could have indicated the amount of \$500 in their shelter information form in 2017 if that was the actual rent they were paying.

The concurring Panel member also differs from the majority panel on the issue of whether the Ministry is required to inform the assistance recipients of changes in legislation. In their reasonings, the majority panel states that the legislation does not require the Ministry to inform each client individually or the public at large of any changes to the legislation. While there is no specific provision in the Act regarding the duty to inform assistance recipients of changes in legislation, the concurring Panel member takes the view that such duty is entrenched in the principles of the rule of law.

In the case of *R v Ferguson*, 2008 SCC 6 at para 68, the Supreme Court of Canada made it clear that it is fundamental to the rule of law that the laws must be accessible, intelligible, clear and predictable.

Turning to the present case, if the Ministry is not required to inform the assistance recipients of the changes to the legislation, it is unclear how the assistance recipients could find out by themselves the new regulations which may have an impact on them or new legislative requirements which they are required to comply with.

It is the concurring Panel member's view that the Ministry is required to inform the assistance recipients of any changes in the legislation which may have an impact on them so that they will be aware of such changes and act accordingly.

In the present appeal, the Ministry did not dispute that they are required to give notification regarding the shelter rate increase. The dispute appears to be whether the Appellant has received the Ministry's notification on July 7, 2023. The Appellant's advocate provided a screenshot of My Self Serve which shows that there were four messages from the Ministry in 2017, one message in 2019, and five messages in 2025. There were no messages in 2018, 2020 to 2024. The Appellant's advocate stated that as they did not receive the Ministry's notification on July 7, 2023, therefore, there is an administrative error by the Ministry and the Appellant is entitled to retroactive payment for the top up of shelter allowance from August 2023 to

September 2024. The Ministry's evidence is that all clients were sent a notification regarding the shelter rate increase on July 7, 2023.

It should be mentioned that this appeal proceeded as a written hearing (as chose by the Appellant's advocate) and hence the Panel did not have an opportunity to hear oral testimonies or seek clarifications from the parties. Without the benefit of hearing direct evidence from the Appellant and the Ministry, the concurring Panel member finds that there is insufficient information to resolve the inconsistencies in the parties' evidence. However, the concurring Panel member finds that, for the purpose of this appeal, it is unnecessary to make a determination as to whether there was an administrative error as there is no provision under the Act or the Regulation which allows the Ministry to make retroactive payment if there has been an administrative error.

Section 23(5) of the Regulation provides that a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested. The evidence shows that the Appellant submitted an updated shelter information form on October 18, 2024 claiming the maximum shelter rate of \$500, it was reasonable for the Ministry to determine that the Appellant was eligible for the top up of shelter allowance beginning October 2024.

Thus, although the concurring Panel member takes a different view on certain aspects of the majority panel's reasonings, the concurring Panel member agrees with the majority panel's decision to confirm the Ministry's Reconsideration Decision.

Appendix A

Employment and Assistance Persons With Disability Regulation

Effective date of eligibility

23 (5) Subject to subsection (6), a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

Reporting Requirements

29 (1) This section sets out reporting requirements for the purposes of section 11 [*reporting requirements*] of the Act.

(3) If there is a change in a family unit's circumstances that is not disclosed in a report submitted under subsection (2), and if the change could affect the eligibility of the family unit to receive disability assistance or hardship assistance, a report must be submitted by the fifth day of the calendar month following the calendar month in which the change occurs.

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Part G – Order

The panel decision is: (Check one) **Unanimous** **By Majority**

The Panel **Confirms the Ministry Decision** **Rescinds the Ministry Decision**

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

Legislative Authority for the Decision:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

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

Part H – Signatures

Print Name

Neena Keram

Signature of Chair

Date: 2025/06/09

Print Name

Mimi Chang (concurring panel member)

Signature of Member

Date: 2025/06/09

Print Name

Perihan Sucu

Signature of Member

Date: 2025/06/09