

Appeal Number 2025-0199

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) Reconsideration Decision dated 7 May 2025, which denied the appellant a reconsideration decision.

Specifically, the ministry determined that the Request for Reconsideration was not submitted within the legislated 20 business days, and that no special circumstances existed that prevented the appellant from submitting their request, in accordance with Section 79(2) and 79(3) of the Employment and Assistance Regulation.

Part D – Relevant Legislation

Employment and Assistance Regulation (the “Regulation”) section 79(2).

Part E – Summary of Facts

The hearing took place on June 24, 2024, as a teleconference. The appellant was not present at the hearing. Tribunal staff confirmed that the appellant had been notified of the hearing and made several attempts to contact her, and after 15 minutes, and under the authority of section 86(b) of the Regulation, the hearing commenced with only the ministry representative and the panel in attendance.

Evidence at the time of reconsideration

In the Request for Reconsideration dated May 5, 2025, the appellant included:

- 1) A Statutory Set-off dated January 16, 2025, from the Canada Revenue Agency stating that the appellant owed \$3,331.16 to the Minister of National Revenue
- 2) A request for more time to submit the Request for Reconsideration as she was “waiting for a call back from Service Canada and the CRA in response to information I had requested from them regarding my tax file”.
- 3) A statement from the appellant states that the CRA was going to garnish her disability assistance by 20% and this would affect her partner. She states that “this is my debt, not his and it was incurred before we were in a relationship”.

According to the Ministry’s decision, the following is a chronology of events:

- 1) April 3, 2025: the ministry sent the appellant a message through the ministry’s web portal “My Self Serve”, advising the appellant that \$1,071.21 that she receives from CPP would be deducted from her monthly disability assistance;
- 2) April 14, 2025: the appellant requested a reconsideration of the ministry’s decision and asked for a reconsideration package;
- 3) April 16, 2025: a reconsideration package was mailed to the appellant, which stated that the Request for Reconsideration form must be returned to the ministry by May 1, 2025; and,
- 4) May 6, 2025: the ministry received the appellant’s Request for Reconsideration form.

The ministry completed its review of the Request for Reconsideration on May 7, 2025.

In the Reconsideration Decision, the ministry found that:

- 1) The appellant was informed of the ministry’s decision on April 3, 2025, and the appellant’s request was delivered on May 6, 2025, after the legislated 20 business day deadline of May 1, 2025.

- 2) Although the 20 business day deadline can be extended if special circumstances exist, in this case the ministry “is not satisfied that special circumstances existed that prevented you from submitting your request by May 1, 2025”.
- 3) The ministry is unable to conduct a reconsideration relating to this request and “cannot make available to you a reconsideration decision”.

Testimony at the hearing

The appellant was not present at the hearing and the panel relied on her Request for Reconsideration.

The ministry representative confirmed the appellant received the decision notice on April 3, 2025, and this was confirmed on the web portal. The 20 business days started at this time, so in this situation it was May 1, 2025.

Upon questioning by the panel, the ministry representative stated that “special circumstances” are viewed by the ministry quite “loosely” and are granted in many cases. However, in this situation, there was minimal information provided, and none that could support the conclusion that special circumstances existed.

Admissibility of Additional Information

The panel admitted the appellant’s evidence about her communications with Revenue Canada and other government ministries and the ministry representative’s testimony at the hearing as evidence under Section 22(4) of the *Employment and Assistance Act*, which allows for the admission of evidence reasonably required for a fair full and fair disclosure of all matters related to the decision under appeal.

Part F: Reasons for the Panel's Decision

The issue on appeal is whether the ministry's denial of a Reconsideration Decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine under Section 79 of the Regulation that the appellant missed the deadline and that no special circumstances exist which would allow for an extension?

Ministry position

The ministry states that the Request for Reconsideration was submitted after the deadline and that special circumstances to grant an extension did not exist.

Appellant's position

The appellant submitted a Request for Reconsideration that was signed and dated May 1, 2025. She requested an extension as she was "waiting for a call back from Service Canada and the CRA".

Panel's reasons

Part D of Section 17(2) of the Act states:

"A request ... must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation".

Section 79(2) of the Regulation states:

"A request ... must be received by the minister within 20 business days after the date the person is notified of the decision".

In the Request for Reconsideration, which is signed by the appellant, the "relevant dates" state that the appellant was informed of the decision on April 3, 2025, and the date by which the appellant must submit the form is May 1, 2025. This form is stamped as having been received by a ministry office on May 6, 2025.

The panel finds that the appellant was informed of the ministry's decision on April 3, 2025. As per the Regulation, 20 business days after April 3, 2025, would be May 1, 2025.

Although the appellant dated the request May 1, 2025, the stamp indicates that the request was received by the ministry on May 6, 2025. The appellant did not appear at the hearing and could not explain this discrepancy. The panel finds that the ministry acted

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reasonably in determining that the request was received on May 6, 2025, as indicated by the "received" stamp, after the deadline of May 1, 2025, and the panel finds that the ministry did not need to provide a reconsideration.

Section 79(3) of the Regulation states that "the minister may extend the time limit set out ... if the minister is satisfied that special circumstances exist".

The ministry is not satisfied that special circumstances exist. In the appellant's Request for Reconsideration, she states that they are waiting for a call back from Service Canada and the CRA.

The panel is sympathetic to the appellant's request, but finds that the ministry acted reasonably in determining, in this situation, that waiting for a call back does not qualify as a special circumstance.

The panel finds that the ministry reasonably determined, based on the timeline, that the appellant did not request a reconsideration within the time allotted, and that special circumstances did not exist to allow for additional time.

Based on these facts, the panel finds that the ministry's decision is reasonable.

In the view of the panel, the ministry's decision that the appellant is not eligible for a review is reasonably supported by the evidence and is a reasonable application of the legislation in view of the request of the appellant.

The panel confirms the ministry's decision. The appellant's appeal is not successful.

Schedule of Legislation

EMPLOYMENT AND ASSISTANCE ACT

Reconsideration and appeal rights

17 (1) Subject to section 18, a person may request the minister to reconsider any of the following decisions made under this Act:

- (a) a decision that results in a refusal to provide income assistance, hardship assistance or a supplement to or for someone in the person's family unit;
- (b) a decision that results in a discontinuance of income assistance or a supplement provided to or for someone in the person's family unit;
- (c) a decision that results in a reduction of income assistance or a supplement provided to or for someone in the person's family unit;
- (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
 - (i) the maximum amount of the supplement under the regulations, and
 - (ii) the cost of the least expensive and appropriate manner of providing the supplement;
- (e) a decision under section 9 (2) [*client needs assessment and employability plan*] to specify conditions of an employability plan.

(2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation.

EMPLOYMENT AND ASSISTANCE REGULATION

How a request to reconsider a decision is made

79 (1) A person who wishes the minister to reconsider a decision referred to in section 17 (1) of the Act must make a request for reconsideration in the form specified by the minister.

(2) A request under subsection (1) must be received by the minister within 20 business days after the date the person is notified of the decision referred to in section 17 (1) of the Act.

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(3)Despite subsection (2), the minister may extend the time limit set out in that subsection if the minister is satisfied that special circumstances exist.

[am. B.C. Reg. 98/2024, Sch. 1, s. 6.]

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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

Robert McDowell

Signature of Chair

Date (Year/Month/Day)

2025/06/27

Print Name

Carla Tibbo

Signature of Member

Date (Year/Month/Day)

2025/06/27

Print Name

Kenneth Smith

Signature of Member

Date (Year/Month/Day)

2025/06/27