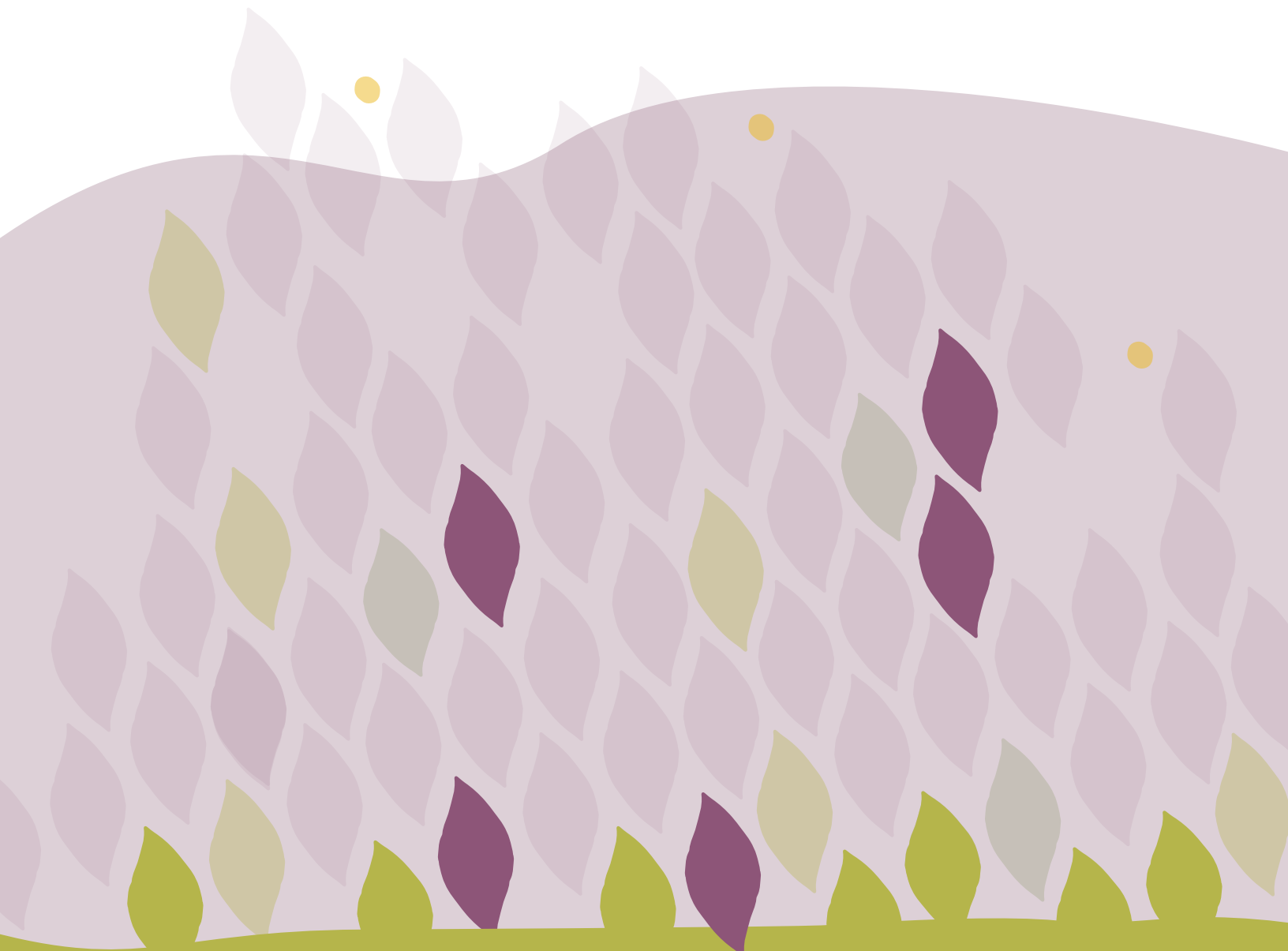


**Employment and Assistance
Appeal Tribunal** British Columbia

Annual Report 2023/24





Employment and Assistance Appeal Tribunal British Columbia

June 2024

The Honourable Sheila Malcolmson

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 April 1, 2023 to March 31, 2024. The report has been prepared in accordance with section 20(1) of the *Employment and Assistance Act*.



Emily C. Drown, B.A., LL.B

Chair, Employment and Assistance Appeal Tribunal
(she/her)

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 regard to income and disability assistance and Ministry of Education and Child Care determinations in regard to child care subsidies.

Contents

- Message from the Chair** 2
- Who We Are and What We Do** 5
 - The Employment and Assistance Appeal Tribunal
 - Tribunal Members
 - Candidates
 - Members
 - Reappointment of Members
 - The Appeal Process
- If You Want to Appeal** 12
 - How to Appeal
 - Type of Hearing
 - In-Person Hearing
 - Teleconference Hearing
 - Video-conference Hearing
 - Written Hearing
 - After the Hearing
- How We Did in 2023/24** 14
 - Summary of Appeals Statistics
 - Appeal Outcomes
 - Appeal Files with a Disposition by Appeal Type
 - Judicial Review Outcomes
 - Public Disclosure Act disclosures
- What Our Decisions Look Like** 17
 - CASE 1 Persons with Disabilities Designation
 - CASE 2 Crisis Supplement
 - CASE 3 Affordable Child Care Benefit
- Looking Forward** 24
- Appendix A: Tribunal Staff** 26
- Appendix B: Tribunal Members** 26
- Appendix C: Budget** 28
- How to Contact Us** 29

Message from the Chair

This annual report covers the period of April 1, 2023 to March 31, 2024. This report flags items of importance and initiatives that may be of interest that have affected the Employment and Assistance Appeal Tribunal (the “Tribunal”) during the reporting period.

After several years where the way the Tribunal operates was often dictated by the Covid-19 pandemic, the recent reporting period saw a return to normal for Tribunal operations. In person hearings have returned and appellants are now able to select to have their hearings held in person, by telephone or video conference, or in writing. Last year, I reported that staff were now working in a hybrid office environment, and this set up has continued with success. That said, the reporting year did see substantial overturn in the Tribunal’s management team with both the Manager, Appeals and Director, Policy and Appeal Management positions becoming vacant mid-way through the reporting period. Accordingly, much of the Tribunal Chair’s attention was focused on recruitment and onboarding of new staff for these positions. Both positions were successfully competed and have been filled.

During the reporting period, the Tribunal focused on providing in-depth training workshops for members appointed to the tribunal within the last two years. While members are provided with asynchronous online training upon appointment, I find that

more in-depth training is best received after members have had an opportunity to take part in several hearings and can better make sense of the skills being explored in training sessions. These workshops were provided via videoconference over two days and covered topics such as hearing skills, statutory interpretation, new evidence and standard of review, plain language decision writing, and reconciliation.

Throughout the reporting period, the Tribunal’s Reconciliation Working Group met at regular intervals. The working group continues to provide feedback regarding Tribunal processes and regularly brings forward ideas/concerns to the attention of Tribunal management. Items of note include continuing to make the Tribunal’s processes user-centered, increasing the number of Indigenous panel members, building relationships with Indigenous peoples, and working to remove barriers to accessing the services of the Tribunal. With respect to the later, as mentioned in last year’s annual report, the Tribunal continues to work with the Ministry to access and analyze data regarding rates of application, reconsideration and appeal.

I would like to thank the Tribunal’s staff and members for their hard work over the reporting period. Our staff and members continue to embrace process changes that improve access to justice for those citizens



of British Columbia accessing the Tribunal's services. I also wish to thank the members of the Tribunal's Reconciliation Working Group for their commitment and dedication to helping the Tribunal move forward on its Pathway towards Reconciliation.

Finally, I would like to thank advocates, users of the Tribunal, members of the public, and other stakeholders that have contacted me with complaints, compliments, and suggestions for improvement of the Tribunal. I always appreciate hearing from you and through these interactions gain new insight into how the Tribunal needs to adapt to best serve the needs of the people of British Columbia.

It is a pleasure to serve as Chair of the Tribunal and I look forward to the coming year.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emily C. Drown', written over a light blue rectangular background.

Emily C. Drown, B.A., LL.B
(she/her)

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.



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 Education and Child Care 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, 10 staff and, during the reporting period, 68 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, Ministry of Education and Child Care 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.



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, 24 members were reappointed.

NOTE: The Tribunal is recruiting new Members, particularly from more rural areas of the province. Anyone interested in being considered for appointment should refer to the Tribunal website, www.eaat.ca, for information on how to apply.

The Appeal Process

The Tribunal hears appeals of reconsideration decisions made by the Ministry of Social Development and Poverty Reduction on income and disability assistance and the Ministry of Education and Child Care on 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.

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 Education and Child Care's reconsideration process can be obtained by calling 1-888-338-6622.

Those who disagree 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 twenty 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. The time prior to hearing an appeal may

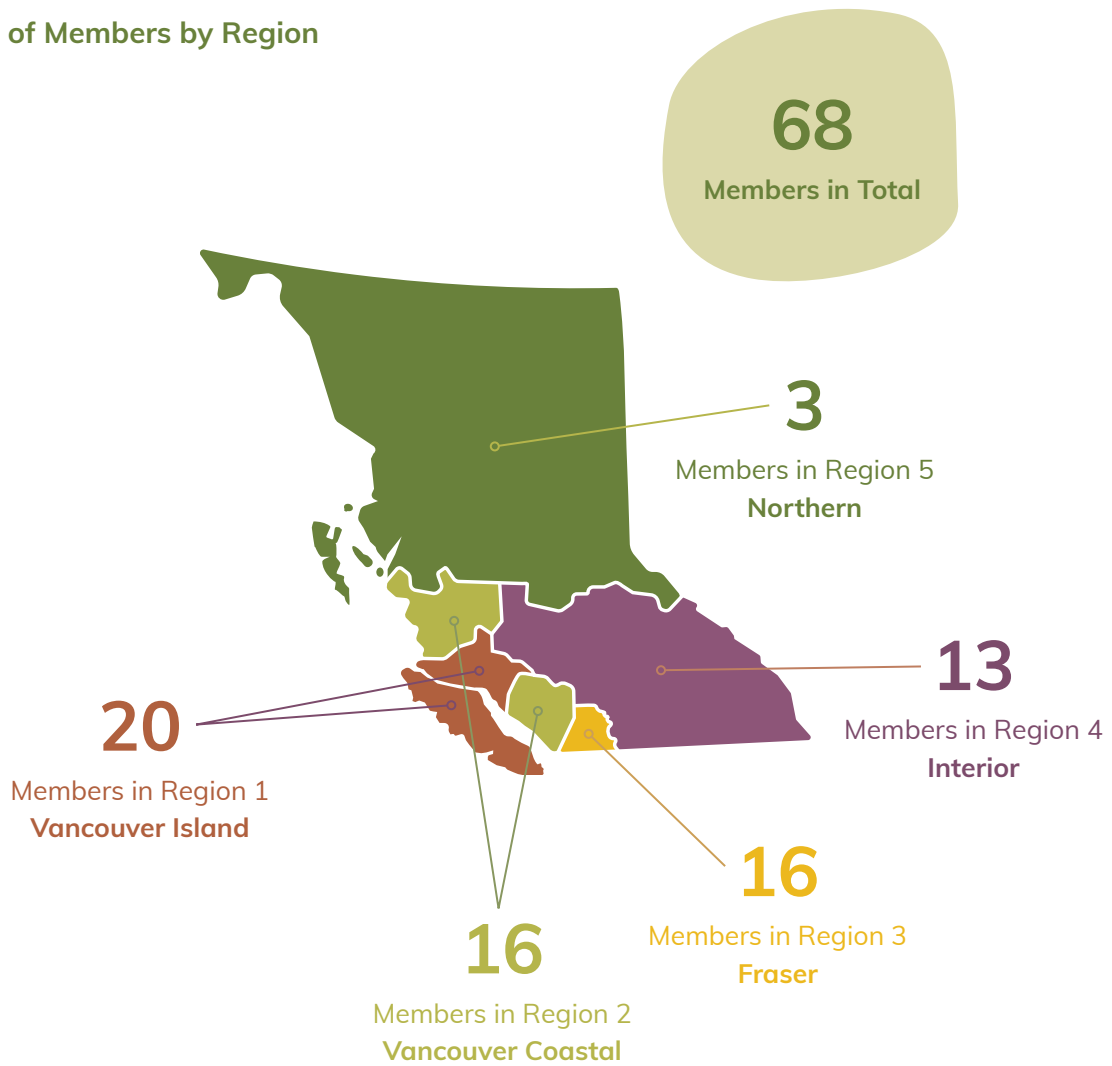


be extended by consent of the parties and approval of the Tribunal Chair. Hearings are conducted in person, usually in or near the appellant's community, by teleconference, by video-conference or, if both parties consent, in writing.

The panel reviews the ministry's reconsideration decision and the appeal record, considers any evidence provided by the appellant or the ministry, and provides a written decision to the Tribunal, generally within five 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 five business days of receiving it from the panel.

NOTE: Summaries of certain Tribunal decisions are included in Section 4, "What Our Decisions Look Like." Tribunal decisions issued since 2012 are available on the Tribunal's website: www.eaat.ca

Number of Members by Region



The Appeal Process

If a person disagrees with a reconsideration decision from the ministry, they 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 **20** business days to submit a Notice of Appeal to the Tribunal with a choice of:

ORAL



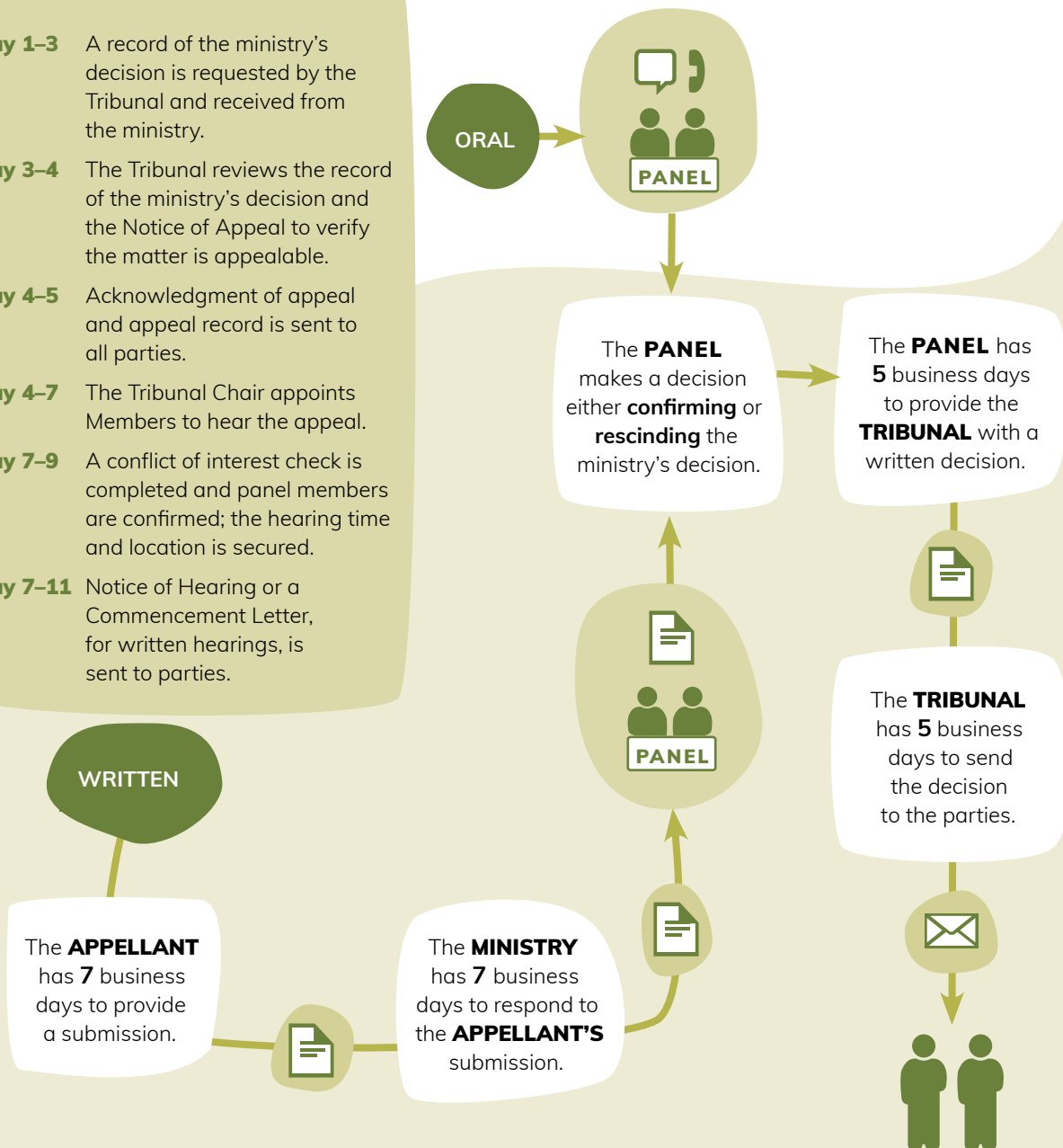
In person, by tele-conference or by video-conference.

WRITTEN



When an Appeal is Initiated

- Day 1-3** A record of the ministry’s decision is requested by the Tribunal and received from the ministry.
- Day 3-4** The Tribunal reviews the record of the ministry’s decision and the Notice of Appeal to verify the matter is appealable.
- Day 4-5** Acknowledgment of appeal and appeal record is sent to all parties.
- Day 4-7** The Tribunal Chair appoints Members to hear the appeal.
- Day 7-9** A conflict of interest check is completed and panel members are confirmed; the hearing time and location is secured.
- Day 7-11** Notice of Hearing or a Commencement Letter, for written hearings, is sent to parties.



If You Want to Appeal

How to Appeal

If you disagree with the ministry's reconsideration decision you may file an appeal within 20* business days.

**The timeline for filing was amended on May 13, 2024, prior to this date, the timeline for filing was 7 business days.*

Prepare for Your Hearing

In this brochure you will find the following information:

- ✓ How to prepare for your hearing;
- ✓ The types of hearings you can have;
- ✓ How to move your hearing to a later date or cancel your appeal; and
- ✓ What happens after your hearing.

Employment and Assistance
Appeal Tribunal British Columbia

Type of Hearing

You can have your hearing in person, via tele-conference, video-conference or in writing. We will do our best to hold the type of hearing you request. Sometimes we are unable to do so. If that is the case, we will let you know. In most cases a panel of three members of the Tribunal will hear your appeal.

In-Person Hearing

An in-person hearing is where the parties and the panel members hearing the appeal meet in person. At the hearing, the panel will listen to the parties and any witnesses. The panel will also look at any written material or submissions sent to the tribunal. You will have an opportunity to ask questions of the ministry representative. You might have to answer questions from the ministry representative. The panel members might also ask you questions. The ministry representative or a panel member might attend the hearing by telephone. After the hearing, the panel will make its decision. We will send you a letter setting out the time and location of an in-person hearing.

Teleconference Hearing

A teleconference hearing is a hearing held by telephone. At the hearing, the panel will listen to the parties and any witnesses. They will also look at any written material

or submissions that you have sent to the Tribunal. You may ask questions of the ministry representative. You might have to answer questions from the ministry representative. The panel members might also ask you questions. After the hearing, the panel will make its decision. We will send you a letter with the time of your hearing and the phone number to dial to join the teleconference.

Video-conference Hearing

A video-conference hearing is a hearing by video-conference. At the hearing, the panel will listen to the parties and any witnesses. They will also look at any written material or submissions that you have sent to the Tribunal. You may ask questions of the ministry representative. You might have to answer questions from the ministry representative. The panel members might also ask you questions. After the hearing, the panel will make its decision. You will need to have a computer or mobile phone that can do video-conferencing. We will send you an email with the time of your hearing and a link to join the video-conference.

Written Hearing

A written hearing is a hearing held by the exchange of written submissions and evidence. The Tribunal will forward any material you send us to the ministry, and they will reply in writing. You will receive a copy of anything the ministry sends to the Tribunal. The panel will look at the

documents the ministry had when it made its decision. The panel will also look at any new material submitted by the parties. The panel will not speak with you, any witnesses or the ministry. After reviewing the material, the panel will make its decision. We will send you a letter setting out a schedule for sending us your evidence and submissions.

After the Hearing

After the hearing, the panel will make its decision and we will send you their written decision. The panel will either confirm or rescind the ministry's decision. Confirming means that the ministry's decision stays in place. Rescinding means that your appeal was successful.

Decisions of the Tribunal are final decision. If you have a complaint about your hearing or the decision you have three options:

1. Judicial Review

You can file a petition in the B.C. Supreme Court asking a judge to review the decision.

2. Complaint to the Tribunal

You can call or write to the Tribunal Chair.

3. Office of the Ombudsperson

You can contact the Office of the Ombudsperson if you feel that we were unfair.

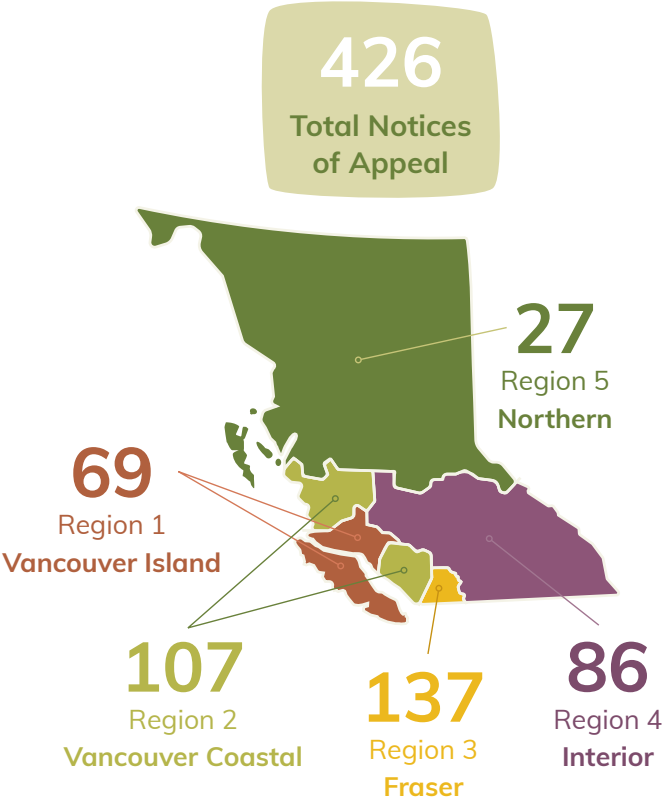
How We Did in 2023/24

Meeting the timelines established by the legislation is one way of measuring the Tribunal’s performance. The Tribunal must hold a hearing within 15 business days of receiving a Notice of Appeal; a party must receive a notice of hearing at least two business days prior to the hearing; the panel must provide the decision to the Tribunal Chair within five business days of the hearing and the Tribunal must mail the decision to the parties with five business days of receiving it from the panel. Two appeals were not held within the legislated time frame in the reporting period due to staff error.

Summary of Appeals Statistics

<div style="background-color: #c8d6c8; border-radius: 15px; padding: 10px; display: inline-block;"> <h3 style="margin: 0;">426</h3> <p style="margin: 0; font-size: 0.8em;">Notices of Appeal Received</p> </div>	<div style="background-color: #c8d6c8; border-radius: 15px; padding: 10px; display: inline-block;"> <h3 style="margin: 0;">36</h3> <p style="margin: 0; font-size: 0.8em;">Appeals Dismissed by the Parties</p> </div>
<div style="background-color: #c8d6c8; border-radius: 15px; padding: 10px; display: inline-block;"> <h3 style="margin: 0;">38</h3> <p style="margin: 0; font-size: 0.8em;">Appeal Files Assessed Not Within the Jurisdiction of the Tribunal</p> </div>	
<div style="background-color: #c8d6c8; border-radius: 15px; padding: 10px; display: inline-block;"> <h3 style="margin: 0;">44</h3> <p style="margin: 0; font-size: 0.8em;">Appeals Carried Over*</p> </div>	<p style="font-size: 0.8em;">*Appeals opened between 01/04/2023 and 31/03/2024 and not either closed, heard or rejected by 31/03/2024.</p>

Notices of Appeal by Region



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 similar reasons. The following statistics relate to appeal files that were closed in this reporting period.

Appeal Files with a Disposition by Appeal Type

3	20 Business Days
2	Burial/Cremation Supplement
6	Bus Pass
22	Child Care
1	Confirmed Job Supplement
53	Crisis Supplement
2	Fail to look for work
2	Lost/Stolen Cheque
7	Moving Supplement
15	Other
4	Overpayment
26	TBD

Eligibility

5	Dependency/Living	13	Full time student
10	Effective Date	13	Inc/Earning Exemption
2	Eligibility Audit	6	Residency
26	Excess Inc/Asset	3	Shelter Allowance
4	Failure to provide information		

Health Supplement

11	Dental	8	Med Transport	1	S/T Nutritional
2	Diet/Natal	13	MNS	2	Therapies
21	Med Equipment	2	Opitcal		
3	Med Supplies	6	Orthoses		

Disabilities

1	PPMB	131	PWD
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Ministry of Social Development and Poverty Reduction

375	Appeals heard
249	Decisions confirmed
69	Decisions rescinded

Ministry of Education and Child Care

23	Appeals heard
13	Decisions confirmed
9	Decisions rescinded

Judicial Review Outcomes

The Tribunal received two petitions for judicial review in the reporting period. One petition concerned two appeals concerning the same appellant and is currently before the court. The other petition was settled via a consent order and was sent back for reconsideration.

Public Interest Disclosure Act

As of April 1st, 2022, the Tribunal was designated a government body under the *Public Interest Disclosure Act*. The Tribunal has established procedures and provided information as required by the Act.

The Tribunal received no disclosures in the reporting period.

Appellants who consented to Email Communications

334 Consent

92 No Consent

Cases with a Special Status

18 Accessibility

35 Interpreter

Languages requested for Interpreters

10	Arabic	1	Pashto
1	Burmese	1	Portuguese
3	Cantonese	2	Punjabi
10	Farsi	1	French
1	Korean	1	Tigrigna
2	Mandarin	1	Urdu
1	Nuer		

What Our Decisions Look Like

CASE 1 Persons 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* (Act). Section 2 of the Act sets out five criteria for a person to be designated as a PWD:

- (1) The person has reached the age of 18;
- (2) The Minister is satisfied the person has a severe mental or physical impairment;
- (3) In the opinion of a medical practitioner, the severe impairment will continue for at least two years;
- (4) In the opinion of a prescribed professional, the impairment directly and significantly restricts the person's ability to perform daily living activities, either continuously or periodically for extended periods; and
- (5) In the opinion of a prescribed professional, as a result of the restriction in daily living activities, the person requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform those daily living activities.

The Ministry found that the Appellant met the age and duration requirements (criteria (1) and (3)). However, the Ministry was not satisfied that the Appellant met the severe impairment, restrictions on daily living activities or significant help requirements (criteria (2), (4), and (5), above).

Summary of Facts

Self Report

In the Self Report the Appellant reported onset of paralysing pain throughout his body that worsened through the day. The Appellant reports emotional, psychological, physical and mental impacts to everyday life.

Medical Report

In the Medical Report, completed by the Appellant's doctor, it is provided that the Appellant has weekly methotrexate injections, poor mobility instability with walking and requires mobility aid/orthotics, and limited use of upper limbs. Family helps with housework and dressing. These impairments are described as being lifelong conditions that will require medication indefinitely. Continuous impact to daily living activities was also noted in a majority of tasks including: personal self care, basic housework, daily shopping, mobility inside and outside the home, and use of transportation. Notably, the Appellant is said to require help to steady themselves against a wall or surfaces when walking. The Appellant always requires a friend or family member to accompany them to appointments due to poor mobility.

Additional comments from the Medical Report include a note that the Appellant has limited use of arms due to ongoing rheumatoid arthritis and assistance will be required when dressing, putting on shoes, and attending various appointments.

Assessor Report

The Appellant's doctor also completed the Assessor Report. The Appellant is described to have poor writing skills under the ability to communicate. With mobility and physical ability, periodic assistance from another person is noted in all areas.

Under cognitive and emotional functioning, the doctor noted no impact on daily functioning. Under daily living activities it is highlighted that the Appellant will require periodic assistance from another person in the following areas: dressing, grooming, bathing, laundry, basic housekeeping, going to/from stores and carrying purchases home. Further assistance is needed with food preparation, cooking and getting in and out of a vehicle.

There was no impact noted under social functioning.

It was repeated in the Assessor Report that the Appellant has rheumatoid arthritis that causes poor mobility and restricted use of hands. The Appellant needs someone to take them to any appointments and shopping and has difficulty carrying things.

Finally, the doctor states that the Appellant receives help from family and friends, and the use of custom shoes and orthotics are used routinely to help compensate for the impairments. The Appellant comes to the office weekly for methotrexate injections but always requires a friend or family for support. The Appellant is also seeing a physiotherapist, rheumatologist, and podiatrist.

Tribunal Decision – The Panel rescinded the Ministry's decision.

Reasons for Decision

Severe Mental or Physical Impairment

The Panel found that the Ministry reasonably determined that the Appellant does not have a severe mental impairment. Throughout the Medical Report and Assessor Report, the doctor reported no significant deficits with cognitive and emotional functioning and there were no reported impact to daily functioning with regard to mental impairments. The social functioning areas were also reported to be independent in all areas and the Appellant has good functioning with immediate and extended social networks. Though the Appellant states in the Self Report that the conditions have gravely affected the quality of life, the Panel finds that there was insufficient information to demonstrate any mental impairment. Further, there was also no diagnosis from the doctor as to any mental impairment.

For physical impairment, the Panel found that the Ministry was not reasonable in its determination that the Appellant experiences moderate overall physical impairment instead of severe impairment. It was provided through the Assessor's Report that the rheumatoid arthritis impacted the Appellant's ability to walk and use of upper limbs. The Appellant experiences debilitating pain and on occasion seizes and cannot move. While the doctor indicated the Appellant may move independently (1-2 blocks and 5+ stairs unaided), it is clearly noted that the Appellant's ability to walk is heavily impacted. The Appellant is observed to be very unsteady in walking and impacts on upper limbs are described to be significant. The Panel found that all accompanying notes and information should be considered and it was unreasonable for the Ministry to focus on only the ticked boxes on the application forms instead of the totality of medical evidence provided.

Restrictions to Daily Living Activities

The Ministry had found that there are moderate restrictions due to physical impairments, as opposed to direct and significant restrictions as required by the legislation. The Panel found this to be unreasonable given that there was sufficient evidence (through direct and significant restrictions to several areas such as shopping, using public and personal transport, performing housework, moving about indoors and outdoors as well as performing personal hygiene) to establish the Appellant's severe physical impairment directly and significantly restricted daily living activities continuously, or periodically for extended periods.

In the Request for Reconsideration and Medical Report, the doctor stated that the Appellant is unable to do grocery shopping without assistance due to worsening mobility and pain to upper limbs. The Assessor Report further stated the Appellant needs periodic assistance going to/from stores and carrying purchases home. The Medical Report also states that the Appellant requires periodic assistance getting in and out of a vehicle, that mobility inside and outside the home is continuously restricted, and the Appellant requires help to dress, bathe and wash hair.

Help

The Panel found that the doctor provided evidence that the Appellant requires help with housework, bathing, grocery shopping and attending appointments. The doctor anticipates that with time and natural disease progression, the Appellant will be increasingly dependent on others and become more impaired. The Panel found the Ministry's determination on the requirement for help to be unreasonable.

What Our Decisions Look Like

CASE 2 Crisis Supplement

Ministry Decision

The Ministry of Social Development and Poverty Reduction (Ministry) determined that the Appellant was not eligible for a crisis supplement to pay for a pellet stove. Under section 59 of the Employment and Assistance Regulation a crisis supplement may be provided to a family unit if:

- (1) The family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed;
- (2) The family unit is unable to meet the expense or obtain the item because there are no resources available; and
- (3) Failure to meet the expense or obtain the item will result in:
 - a. Imminent danger to the physical health of any person in the family unit, or
 - b. Removal of a child under the *Child, Family and Community Service Act*.

The Ministry was satisfied that the Appellant did not have the resources to pay for the pellet stove as a heat source for her house. However, the Ministry was not satisfied that the expense was unexpected and that failure to purchase the pellet stove would result in imminent danger to a member of family unit's physical health.

Summary of Facts

The Appellant was a sole recipient of income assistance.

The Appellant requested a crisis supplement to purchase a pellet stove in July 2023. The Appellant submitted that a small fire in the chimney of the oil furnace at home meant that the oil furnace could no longer be used. Fortis BC had approved a grant to convert the oil furnace to natural gas, but the Appellant did not consider the house worth such an upgrade. The Appellant was using electric heaters to heat the house. The request was denied on the basis that there was no evidence that the Appellant's physical health was in imminent danger. The Appellant

requested reconsideration of the Ministry's decision and the Reconsideration Decision determined that none of the criteria for a crisis supplement under section 59 of the Employment and Assistance Regulation had been met.

In the Notice of Appeal, the Appellant stated that the Ministry seems to think that there is electric heat at home which is untrue. Further, the Appellant no longer has natural gas heat as the gas fireplace exploded and a Fortis rebate for the heated is therefore obsolete. The Appellant could not use wood heat due to disabilities and cannot rely on others to assist.

The Appellant did not attend the hearing and the Panel relied on the submissions provided in the Notice of Appeal.

Tribunal Decision – The Panel confirmed the Ministry's decision.

Reasons for Decision

The Panel found that the Ministry reasonably determined the Appellant was not eligible for a supplement to purchase a pellet stove as not all the criteria under section 59 of the Employment and Assistance Regulation had been met. Specifically, the panel found that three criteria (applicant eligible for income or hardship assistance, unexpected expense and there are no resources to cover the expense) were met and the following criterion was not met: failure to meet the expense will result in imminent danger to the physical health of a person in the family unit or removal of a child under the *Child Family and Community Service Act*.

The Panel found that the Appellant was not in imminent danger as the records show that the fire had occurred in the winter of 2022 and the Appellant did not apply for the crisis supplement until July 2023, and had another source of heating. Given the lapse of time between the event and the time of application, the panel found the Ministry's determination that there is no "imminent" physical danger to be reasonable.

What Our Decisions Look Like

CASE 3 Affordable Child Care Benefit

Ministry Decision

The Ministry of Education and Child Care (Ministry) found that the Appellant was not eligible for the Affordable Child Care Benefit (ACCB) for the period between September 6, 2023 and January 31, 2024 because the ACCB may only be paid from the first day of the month in which the parent completes an application. The Ministry found that the Appellant did not submit a completed application until February 2024.

Summary of Facts

The Appellant was a previous recipient of the ACCB. The previous authorization expired on June 30, 2023. Prior to expiry, a message was sent through the Ministry's online MyFS account advising the Appellant that the Benefit Plan was ending in approximately 30 days and that the Appellant could request to continue receiving the benefit by using the link on the dashboard to renew or report changes. The Appellant did not provide any information to the Ministry and the account was closed four months later by the Ministry due to inactivity.

The Child Care Service Centre (CCSC) received a CF2798 - Affordable Child Care Benefit- Child Care Arrangement Form from the Appellant on November 17, 2023 with a starting date of September 6, 2023. The CSCC was unable to contact the Appellant through MyFS as the relevant account was already closed and attempted to contact the Appellant but was not successful.

On January 15, 2024, the Appellant requested support for accessing MyFS and at that time was advised that the relevant account was closed and that the Appellant would need to file a new application. A CF2900 form -Affordable Child Care Benefit Application, was submitted on February 2, 2024. The CCSC found the Appellant eligible for ACCB starting February 1, 2024. On February 26, 2024 the Appellant called the

CCSC to ask if the ACCB could be backdated to September 6, 2023, the date the Appellant had indicated as a starting date when the Child Care Arrangement Form was submitted in November 2023. The ministry denied this request through a letter sent on February 27, 2024.

In the Appellant's Request for Reconsideration, the Appellant explained that as childcare was not going to be required in July and August of 2023, the Appellant did not submit an application when the original reminder was received from CSCC. The Appellant did not know that an application had to be made before childcare started and stated that this is the first time the situation had arisen. The Appellant further claimed that they were not aware that applications could not be backdated. The Appellant further claims that the original forms were signed in September and October 2023 and only signed again in January 2024 as the fees for the childcare facility were increased. The Appellant was finally able to go online and apply in February 2024.

Additional Evidence

In her Notice of Appeal the Appellant stated that they did not agree with the reconsideration decision as there was a lack of communication with the Ministry indicating that the file/ account was going to be closed, noting that May 22, 2023 was the last email they had received from the Ministry. The Appellant further added in the hearing that their MyFS account had never been closed before and they previously relied on email notification from MyFS. The Appellant said they were not aware that the Ministry had tried to make contact.

The Appellant was under the impression that CF2798 was the only form that had to be submitted and stated that in the past they had usually submitted the form late by the end of October each year and then received the ACCB retroactively. The Appellant said that the CF2798 form submitted to the Ministry in November

2023 was faxed from the office of the childcare provider and when an immediate response was not received they assumed they just needed to wait for a response from MyFS. The Appellant did not talk to the Ministry in November 2023 and did not have contact with them until January 15, 2024 when they were informed that the MyFS account had been closed.

Admissibility

The Panel admitted the Appellant's additional evidence as reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Tribunal Decision – The Panel confirmed the Ministry's decision.

Reasons for Decision

The Panel found that the Ministry's determination that the Appellant was not eligible for the ACCB from September 2023 to January 2024 was a reasonable application of the legislation. The Panel found that the Appellant's application was not complete until February 2024 when the Appellant submitted the CF2900 Form to the ministry and held that under the Child Care Subsidy Regulation, the ACCB is payable from the first day of the month in which the application is complete.

The Panel found that the Ministry was reasonable in determining that the Appellant was required to re-apply for benefits as the Appellant did not renew the application through MyFS when it expired. The panel stated that though it would be useful for the Ministry to send courtesy reminders that benefits are about to expire, it is reasonable for the Ministry to close files after four months of inactivity.

The Panel further determined that the Ministry did not make an administrative error (which would warrant a 30-day backdating of benefits) as the correct form to apply for the ACCB (the CF2900 form) was not submitted until February 2, 2024. The panel stated that the Appellant must bear responsibility for not following up with the Ministry until six months after the ACCB expired and two months after they submitted Form CF2798 (which was not the complete application).

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

Looking Forward

Looking forward to the 2024/25 fiscal year, I anticipate several interesting developments, many of which will improve services for citizens wishing to file appeals with the Tribunal.

To begin with, this coming year will see the implementation of various legislative changes affecting the Tribunal's processes. At the time of writing the following legislative changes have already been brought into force:

- Giving prospective appellants 20 business days to file their appeals rather than the 7 business days previously legislated;
- Giving the Tribunal Chair discretion to extend the time limit for filing a notice of appeal if satisfied that special circumstances exist; and
- Making it easier for an appellant to withdraw an appeal.

It is anticipated that these changes will make it easier for individuals to file appeals with the Tribunal and will increase access to hearings before the Tribunal.

As part of the implementation of the Tribunal's reconciliation plan, it is expected that the Tribunal will continue to build relationships with Indigenous Peoples

of British Columbia. The Tribunal's Reconciliation Working Group will continue to meet monthly, and it is anticipated that the group will highlight more changes that can be implemented to foster reconciliation including increasing the number of Indigenous panel members appointed to the Tribunal.

During the next reporting period the Accessible BC Act will begin to apply to the Tribunal. At the time of writing, work is underway to ensure that the Tribunal is fully compliant with the requirements of the Act. The Tribunal welcomes inclusion as a specified organization under the Act and looks forward to having a focused accessibility committee established to ensure that the Tribunal's services are fully accessible.

Looking forward, I anticipate that the Tribunal will see an ongoing increase in the number of appeals filed. At the time of writing this report, it is anticipated that the appeal volume for the coming fiscal year will be approximately thirty percent higher than the 2023/24 reporting year. I also expect the Tribunal will continue to embrace user-centered process improvements as we seek to increase access to justice for those eligible to bring appeals to the Tribunal.

As appeal volumes increase, more appellants require assistance with appeals before the Tribunal. The Tribunal is actively looking at ways to ensure that all appellants seeking an advocate to assist them with their hearing can find an advocate. It is anticipated that the Tribunal will work to build relationships with advocacy organizations and law schools to create an up-to-date directory of advocates able to assist appellants with hearings in a timely manner.

I would be remiss looking forward if I did not mention the advent of the *Legal Professions Act*. As most individuals appearing before the Tribunal cannot afford legal counsel, I watch with interest as this new piece of legislation creates a unified single regulator and hope that such change results in improved access to legal representation for those appearing before the Tribunal.

I look forward to the coming reporting period. It is my pleasure to serve as Chair of the Employment and Assistance Appeal Tribunal.

Sincerely,



Emily C. Drown, B.A., LL.B
(she/her)

Appendix A

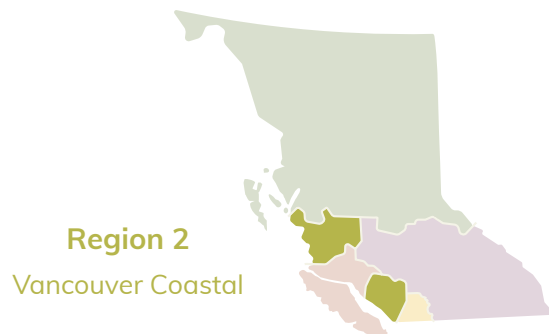
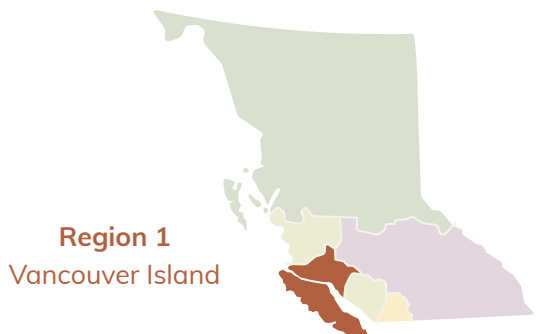
Tribunal Staff as at March 31, 2024

Christina Cumming	Amy Penner	Andrew Ross
Emily Drown*	Amy Power	Kenneth Sham
Lisa Lee	Kristen Ross	Julya van der Sloot
Nicholas Paetz	Chelsea Sumpter	

*Appointed full-time Member, not staff.

Appendix B

Tribunal Members by Region as at March 31, 2024



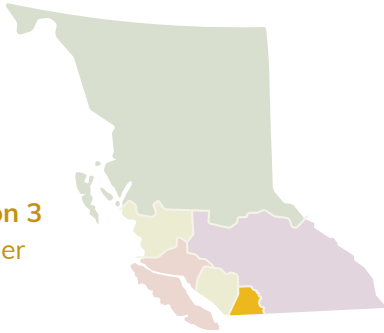
Kent Ashby	Jane Nielsen
Jan Broocke	Margarita Papenbrock
Corrie Campbell	Glenn Prior
Emily Drown	Joseph Rodgers
Robert Fenske	Charles Schellinck
Richard Franklin	Michael Skinner
Melissa McLean	Jennifer Smith
Trevor Morley	Kenneth Smith
Inge Morrissey	Donald Stedeford
Wesley Nelson	Gordon Thompson

Anil Aggarwal	Maryam Majedi
Greg Allen	Robert McDowell
Daniel Chow	Peter Mennie
Susanne Dahlin	Diane O'Connor
Susan Ferguson	Adam Shee
Julie Iuvancigh	Connie Simonsen
Margaret Koren	Katherine Wellburn
Kim Louie	Edward Wong

Appendix B

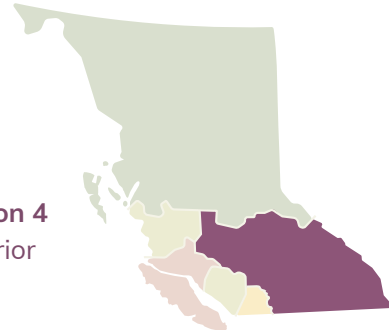
Tribunal Members by Region as at March 31, 2024

Region 3
Fraser



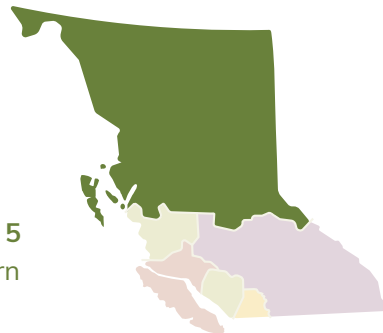
Jennifer Armstrong	Shirley Heafey
Kulwant Bal	Elaine Jeffery
Man Lin Chang	Sameer Kajani
Vivienne Chin	Neena Keram
Simon Clews	Rubina Sidhu
Bill Farr	Perihan Sucu
Warren Fox	Carla Tibbo
David Handelman	Dawn Wattie

Region 4
Interior



Sarah Bijl	Wendy Marten
Janet Black	Shelly McLaughlin
Shannon Campbell	Carmen Pickering
Mary Chell	John Pickford
Bill Haire	Linda Pierre
Robert Kelly	Effie Simpson
Laurie Kent	

Region 5
Northern



Kevin Ash	Janet Ward
Rick Bizarro	

Appendix C

Budget (April 1, 2023 – March 31, 2024)

The provincial government's fiscal year begins April 1st. This Annual Report covers April 1, 2023 to March 31, 2024. The budget table presents the Tribunal's actual expenditures for the last two fiscal years.

OPERATING BUDGET	APRIL 2023– MARCH 2024	APRIL 2022 – MARCH 2023
Salaries and Benefits	\$ 932,345	\$ 873,605
Boards/Commissions/Courts – Fees and Expenses	307,202	237,607
Public Servant Travel	6,334	780
Professional Services: Operational	33,735	32,123
Information Systems: Operating	251,713	219,338
Office and Business Expenses	37,045	25,681
Statutory Advertising and Publications	6,662	0
Amortization Expense	51,432	51,432
Other Expenses	34	34
TOTAL	\$ 1,626,501	\$ 1,440,600

How to Contact Us

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