IN THE COURT OF APPEAL OF MANITOBA

Docket: AI25-30-10220	)	
B E T W E E N:	)	
	)	
RONALD DRAKE	)	
	)	
(Appellant) Applicant	)	***R. Drake***
	)	*on their own behalf*
- and -	)	*(via teleconference)*
	)	
DIRECTOR, WESTERN REGION	)	***D. Fenske***
	)	*for the Respondents*
(Respondent) Respondent	)	
	)	***A. H. Leaver***
- and -	)	*on a watching brief*
	)	*for the Social Services*
Docket: AI25-30-10221	)	*Appeal Board*
B E T W E E N:	)	
	)	*Chambers motions heard:*
RONALD DRAKE	)	***July 3, 2025***
	)	
(Appellant) Applicant	)	*Decision pronounced:*
	)	***April 15, 2026***
- and -	)	
	)	
DIRECTOR, WESTERN - BRANDON	)	
	)	
(Respondent) Respondent	)	

EDMOND JA

Introduction

[1] The applicant is a recipient of employment and income assistance (EIA) pursuant to *The Manitoba Assistance Act*, CCSM c A150 [the *MAA*]. The respondents, Director, Western Region (the Western Region director) and Director, Western - Brandon (the Brandon director) (together, the directors),

of the Department of Families (the department) denied the applicant's two separate requests for additional EIA funding. The applicant appealed both decisions (the appeals) to the Social Services Appeal Board (the board) pursuant to *The Social Services Appeal Board Act*, CCSM c S167 [the *SSABA*]. The appeals were denied.

[2] The applicant filed the present motions, with supporting affidavits, seeking an extension of time to file two applications for leave to appeal reconsideration decisions of the board issued on April 24, 2025 (the motions). The board issued two decisions (the decisions): one issued February 13, 2025 and dated February 24, 2025 (the first decision) and the second issued on February 20, 2025 and dated February 27, 2025 (the second decision), respectively. The applicant requested that the board reconsider the decisions (the requests). The board outlined the reasons for denying the requests in letters dated April 24, 2025 (the reconsideration decisions).

[3] Section 23(1) of the *SSABA* provides for a limited right to appeal a decision of the board to this Court "on any question involving the board's jurisdiction or on a point of law" after obtaining leave to appeal.

[4] The motions were heard in chambers on July 3, 2025 and I delivered my written decision on July 24, 2025 (see *Drake v Western Region (Director)*, 2025 MBCA 68), adjourning the motions to provide notice to the Attorney General of Canada (the AGC) and the Attorney General of Manitoba (the AGM) pursuant to section 7(2) of *The Constitutional Questions Act*, CCSM c C180 [the *CQA*].

[5] After a lengthy period of delay to effect service of the notice of constitutional question, the AGC and the AGM both advised that they did not

challenge the issue of service and that they did not intend to intervene respecting the motions. The AGM advised that he only intended to intervene if the motions were granted.

[6] For the reasons that follow, the motions are dismissed.

Background Facts

[7] The first decision is a decision of the board upholding the decision of the Western Region director denying funding for certain costs necessary for the reinstatement of the applicant's driver's licence.

[8] The facts underlying the request for funding relate to the applicant being pulled over by the police while he was driving in Calgary, Alberta in December 2020. The police demanded that he take a roadside screening test and the applicant objected to the test during the COVID-19 pandemic. Due to a threat by the police officer, the applicant blew into the testing device but his sample failed to register. He was not offered another chance to blow into the device. The applicant was charged with refusal to provide a breath sample under Alberta's administrative sanctions regime (the Alberta sanction).

[9] The applicant's licence was suspended and his vehicle was impounded. He did not take steps to challenge his licence suspension or to file an appeal respecting the Alberta sanction. Once the impoundment period expired, he returned to Manitoba. Relying on the Alberta sanction, Manitoba Public Insurance (MPI) imposed a fifteen-month licence suspension. The applicant did not appeal the licence suspension to the Licence Suspension Appeal Board.

[10] The applicant was advised that, in order to have his driver's licence reinstated, he was required to pay for an Addictions Foundation of Manitoba (AFM) assessment and an ignition interlock device on his vehicle. Since the applicant is on EIA, he is unable to afford these items. Therefore, he requested funding from the department.

[11] The Western Region director took the position that the *MAA* and the *Assistance Regulation*, Man Reg 404/88R [the *MAA Regulation*], do not require the department to pay for legal fees or fines and the applicant's request for the costs associated with reinstating his driver's licence was denied.

[12] The applicant appealed and, prior to the hearing before the board, he attempted to file an extensive amount of material, including evidence of a property tax dispute with the City of Brandon, medical evidence, social work information, and legal submissions respecting multiple alleged breaches (the materials) of *The Human Rights Code*, CCSM c H175 [the *HR Code*] and the *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [the *Charter*].

[13] The first decision advised the applicant that the property tax evidence was not relevant to his appeal and gave directions on which issues would not be part of the appeal hearing. Further, the applicant was advised that "[t]he [b]oard [would] allow submissions on whether MPI's requirements, including the AFM assessment, constitute[d] legal expenses or other types of expenses."

[14] The board heard submissions and accepted the applicant's position that there was no evidence he was impaired by alcohol at the time of the

Alberta sanction. The applicant argued that, if his driver's licence was not reinstated, he will never be able to leave the EIA program.

[15] The sole issue before the board was whether the department was required to assist the applicant with the financial cost of complying with the re-licencing requirements. After reviewing the relevant provisions of the *MAA* and the *MAA Regulation*, the board noted that neither of them spoke to the issue of driver's licence fees, administrative, civil or criminal fines, or other monetary penalties. The board reviewed the department's policy and the position advanced by the applicant that the department should make an exception to its policy in this case. The board exercised its discretion and refused to do so.

[16] In the first decision, the board specifically addressed the applicant's submission that the facts warranted an exception to the policy as follows:

> In essence, [the applicant] is arguing that the [d]epartment should make an exception to its policy because his original charge was unwarranted, the penalty schemes in Alberta and Manitoba are unfair and unconstitutional, and he is unable to afford the costs of obtaining his license.
>
> In determining whether [the applicant] warrants an exception, the [b]oard considers the following factors:
>
> - [the applicant] did not attempt to appeal the [Alberta sanction];
> - [the applicant] has not filed an appeal with the License Suspension Appeal Board in Manitoba, which is the tribunal which has jurisdiction over the relicensing requirements; and
> - [the applicant] denies responsibility for the [Alberta sanction] and does not demonstrate any insight into how his actions might have contributed to the continuing loss of his license.

> Given [the applicant]'s adamant stance that he bears no responsibility for the circumstances he finds himself in, the [b]oard determines that his situation represents the kind of moral hazard the [d]epartment's policy is intended to prevent. [The applicant]'s situation does not warrant an exception to the policy.

[17] The second decision is from the board upholding a decision of the Brandon director that dealt with the calculation of the applicant's shelter costs covered under the EIA program. The applicant claims that the entire amount of his yearly home insurance cost is a recoverable expense and that it should be included in his EIA budget. The department decided to pay for half of the total cost because there are two names listed as owners on the title to the property (the applicant and his brother). The department also did not cover the cost of third-party liability coverage as that was contrary to its policy.

[18] The applicant explained that he is the sole occupant of the property where he resides, all the belongings within the property are his and there are no personal belongings of his brother. Although the property is registered in both of their names, the applicant submitted that he was responsible for the full amount of the insurance cost.

[19] The board heard submissions on the issue and determined that the department had correctly applied its policy respecting reimbursement of home insurance; therefore, the appeal was denied.

[20] The applicant made the requests pursuant to section 22 of the *SSABA*. According to the board's policy (see Manitoba, Department of Families, "Policies and Procedures Manual" at s 17 (last visited 26 March 2026), online: <gov.mb.ca/fs/ssab/policy_procedure.html#review-

reconsideration>) (the policy), reconsideration requests to the board may be granted when:

> a. the original, three person process or decision was, or was perceived to be biased
>
> b. the panel process inhibited the presentation or consideration of relevant evidence
>
> c. if the decision was inconsistent with the legislation
>
> d. if an obvious administrative error in calculation or relevant dates has occurred in the [b]oard's Order.

[21] The director of the board (Mr. Greasley) responded to the requests and provided the applicant with direction on the volume of the materials and the jurisdiction of the board. The applicant characterized his responses as a violation of the policy and submitted that Mr. Greasley improperly limited the materials in an attempt to control the record before the board.

[22] The reconsideration decisions explained the circumstances when the board may grant a reconsideration, considered the requests and the numerous grounds of appeal cited in the materials, and gave reasons for denying the requests. The reconsideration decisions addressed the applicant's various submissions in a comprehensive manner. The issue of the board's jurisdiction was also addressed as follows:

> The [b]oard does not have jurisdiction to hear a matter or make an order if the matter raised on appeal does not fall within the purview of a designated Act.
>
> . . .
>
> A significant part of your submission raised various Charter issues. Section 2 of the *Administrative Tribunals Jurisdiction Act* states:

> 2 Notwithstanding any other Act, an administrative tribunal does not have jurisdiction to determine a question of constitutional law unless a regulation made under section 6 has conferred jurisdiction on the tribunal to determine the question.
>
> The [b]oard is not designated under Section 6 and therefore does not have jurisdiction to determine a question of constitutional law, notwithstanding any other Act.
>
> [emphasis in original]

[23] The applicant submits that the conduct of Mr. Greasley and the board amounts to breaches of sections 7 and 15 of the *Charter*. Because the board advised that it had no jurisdiction to hear and decide the *Charter* arguments pursuant to section 2 of *The Administrative Tribunal Jurisdiction Act*, CCSM c A1.9 [the *ATJA*], the applicant challenges its constitutional validity. Section 2 purports to deny jurisdiction to the board to determine a question of constitutional law because the board is not designated under section 6 of the same act to determine such a question.

[24] The applicant has filed complaints with the Manitoba Human Rights Commission (the MHRC) alleging the board violated sections 9, 13 and 19 of the *HR Code*. He submits the board failed to address the alleged *Charter* and *HR Code* violations.

[25] The applicant submits that section 2 of the *ATJA* is unconstitutional as the *Charter* applies to all government boards and tribunals. The first chambers hearing in this Court was adjourned to permit the applicant to serve the AGC and AGM with a notice of constitutional question pursuant to the *CQA* and to determine whether the AGC and/or the AGM wished to intervene in these proceedings.

[26] On October 5, 2025, the applicant attempted to file two notices of constitutional question (the first notices) and emails were exchanged with the Court of Appeal registry (the registry) and counsel for the AGC and AGM about the form of the first notices. While the AGC and AGM initially took the position that the applicant failed to comply with section 7 of the *CQA*, they waived compliance and either admitted service or did not challenge service of the first notices. The AGC and the AGM advised the registry that they did not wish to intervene at this stage of the proceedings. The registry filed the first notices on February 27, 2026.

[27] On March 2, 2026, the registry received correspondence from the applicant enclosing two new notices of constitutional question (the second notices). Believing the first notices had been rejected by the registry, the applicant requested the registry accept and file the second notices. The second notices raise new questions that were not included as grounds advanced in the motions.

[28] Counsel for the AGC and the AGM were contacted by the registry to determine if they took any position on the second notices and whether they intended to intervene in the proceedings. They advised that they were prepared to admit service of the second notices and would not intervene at this stage of the proceedings. As a result, the second notices were filed and copies of the first notices were removed from the registry and returned to the applicant.

The Test for Extending Time

[29] In *Cann v Access Fort Garry (Director)*, 2025 MBCA 18 at paras 9-12 [*Cann*], leMaistre JA dealt with the test to be applied on a motion to extend

the time for leave to appeal to this Court in the context of an application for leave to appeal an order of the board:

> Recently, in *Bartel-Zobarich v Manitoba Association of Health Care Professionals (MAHCP-Bargaining Unit)*, 2022 MBCA 64, this Court reviewed the criteria for granting an extension of time to commence an appeal at paras 11-12:
>
> > The factors for this Court to consider when determining whether to grant an extension of time to commence an appeal are well settled. They are whether:
> >
> > 1) the applicant had a continuous intention to appeal from a time within the period when the appeal should have been filed;
> >
> > 2) the applicant has a reasonable explanation for the delay;
> >
> > 3) the applicant has an arguable ground of appeal;
> >
> > 4) any prejudice suffered by the other party can be addressed if the extension is granted;
> >
> > 5) whether it is right and just in all the circumstances that the time for commencing the appeal be extended.
> >
> > See *Delichte v Rogers*, 2018 MBCA 79 at paras 16-17; *Samborski Environmental Ltd v The Government of Manitoba et al*, 2020 MBCA 63 at para 36; and *Guilbert v Economical Mutual Insurance Company*, 2022 MBCA 1 at para 13.
> >
> > As noted by Mainella JA in *Delichte*, consideration of the final factor requires the Court to "look broadly at the relevant circumstances and do what justice requires" (at para 17; see also *Samborski* at para 36; and *Guilbert* at para 13).
>
> These factors are equally applicable on a motion to extend time to file an application for leave to appeal.
>
> Section 23(1) of the *SSABA* provides a limited right to appeal an order of the board:

Appeal to Court of Appeal **23(1)** Any party to the appeal before the appeal board may appeal the board's order to The Court of Appeal on any question involving the board's jurisdiction or on a point of law, but only after obtaining leave to appeal from a judge of The Court of Appeal.	**Appel à la Cour d'appel** **23(1)** Avec l'autorisation d'un juge de la Cour d'appel, toute partie à un appel devant la Commission d'appel peut interjeter appel à la Cour d'appel de l'ordonnance de la Commission d'appel sur une question qui touche la compétence de celle-ci ou sur une question de droit.

> Therefore, in order to establish an arguable ground of appeal, the applicant must raise a question of jurisdiction or of law.

[30] In *Klippenstein v Director, Point Douglas*, 2011 MBCA 15 at paras 1-2 [*Klippenstein*], this Court addressed the requirements to be considered for leave to appeal a decision of the board as follows:

> The applicant seeks leave to appeal an order (the Order) of the [board] dated July 15, 2010. The Order confirmed a decision of the Director of Employment and Income Assistance under *The Employment and Income Assistance Act*, C.C.S.M., c. E98, denying the applicant certain benefits.
>
> Leave to appeal may only be granted on a question of jurisdiction or point of law (s. 23, [the *SSABA*]). No question of jurisdiction is raised. The well-accepted principles applicable to an application such as this are set out in *Pelchat v. Manitoba Public Insurance Corp.*, 2006 MBCA 90, 40 C.C.L.I. (4th) 46 (at para. 2):
>
> ….
>
> 1. The question must be truly one only of jurisdiction or of law, and not one which "involve[s] the court in an assessment or analysis of conflicting factual issues" (*Shersty v. Manitoba Public Insurance Corp.* (2002), 43 C.C.L.I. (3d) 35, 2002 MBCA 108 (Man. C.A. [In Chambers]), at para. 2, *Fillion v. Manitoba Public Insurance Corp.* (2004), 10 C.C.L.I. (4th) 182, 2004 MBCA 61 (Man. C.A.), and cases cited therein).

2. The case must be one that warrants the attention of the court. "The issue must be one of importance; not just for the immediate case, but in determining other similar disputes which are apt to arise in [the] future" (*Wuziuk v. Manitoba (Director of Social Services) (No. 2)* (1979), 3 Man.R. (2d) 81 (Man. C.A.), at para. 7.

3. There must be an arguable case of substance; i.e., one with a reasonable prospect of success (see *Lejins v. Manitoba Public Insurance Corp.* (2003), 50 C.C.L.I. (3d) 1, 2003 MBCA 95 (Man. C.A. [In Chambers])).

Analysis and Decision

[31] I considered each of the factors outlined in *Cann* and I am satisfied the applicant had a continuous intention to appeal from the time within the period when his appeals should have been filed. I am also satisfied the applicant had a reasonable explanation for the delay in filing the motions. Further, I am satisfied the directors will not suffer any significant prejudice if the extension is granted.

[32] In my view, deciding the motions turns on whether the applicant has established an arguable ground of appeal in each appeal and whether it is right and just in all the circumstances that the time for seeking leave to appeal be extended. The arguable grounds of appeal are limited to a consideration of whether the applicant has raised a question involving the board's jurisdiction or a point of law.

[33] The material filed by the applicant in support of the motions focuses on numerous grounds of appeal, including alleged breaches of procedural fairness as a result of Mr. Greasley rejecting the materials the applicant sought to submit for the requests; alleged bias when the chair of the board signed the

reconsideration decisions despite the applicant requesting a new panel member or panel be assigned to review the requests; and an alleged error in law by refusing to consider potential breaches of the *HR Code* and the *Charter*.

[34] As I will explain, I am not satisfied that the applicant has established that he has an arguable case of substance with a reasonable prospect of success on any of the proposed grounds of appeal. The motions amount to an attempt to re-argue the facts that were presented to the board. That is not the role of this Court. The questions raised by the applicant must be ones of jurisdiction or of law. It cannot involve the Court assessing and analysing factual issues (see *Klippenstein* at para 2).

[35] Dealing briefly with the applicant's specific grounds of appeal, I am not satisfied that his material supports that there was a breach of procedural fairness.

[36] In the first decision, the board specifically addressed the materials and gave reasons why certain issues would not be considered. It bears repeating a portion of the first decision in light of the applicant's allegations of procedural unfairness. The board stated:

> Prior to the hearing, [the applicant] submitted a considerable amount of evidence related to his property tax dispute with the City of Brandon and to the series of events that led up to the loss of his driver's licence. The evidence submitted in relation to the loss of his driver's licence included numerous media stories and articles criticizing administrative sanctions for impaired driving in Alberta and British Columbia.
>
> The Chair reviewed the property tax evidence and advised [the applicant] that it was not relevant to his appeal. The Chair

> reviewed the evidence related to the loss of his licence and the administrative sanctions regulations and advised [the applicant] that:
>
> > The appeal issue for tomorrow's hearing is the [d]epartment's decision to deny funding for the steps necessary to have your driver's licence reinstated. The [d]epartment has characterized the requested funds as legal fees or fines. You submit, in essence, that they are necessary for your health and financial security. The [b]oard's decision will address this dispute.
> >
> > The chair has determined that the following issues will not be part of tomorrow's hearing:
> >
> > - The conduct of members of the Calgary Police Service, as that conduct has no bearing on the [d]epartment's decision;
> > - The legitimacy or fairness of the police officer's decision to levy an administrative sanction for what he determined to be a refusal to provide a breath sample, as that sanction was implemented and is a matter of fact;
> > - The impaired driving legislation, regulation and policies of the Government of Alberta, as the [b]oard has no jurisdiction over those policies;
> > - The impaired driving legislation, regulation and policies of the Government of Manitoba and of MPI, as the [b]oard has no jurisdiction over those policies;
> > - Your ongoing property tax dispute with Municipal Relations and the City of Brandon, as that dispute is unrelated to the issue of your driver's licence; and
> > - Any process or dispute with another tribunal or agency, such as the Ombudsman and the MHRC.
>
> The [b]oard will allow submissions on whether MPI's requirements, including the AFM assessment, constitute legal expenses or other types of expenses.

[37] The board did allow and heard submissions about whether MPI's requirements, including the AFM assessment, constituted legal expenses or other types of expenses and whether such expenses would be eligible as part of the applicant's EIA. The board gave comprehensive reasons for denying

the requests and found that the applicant's situation did not warrant an exception to the policy of the department. There is no evidence that the board failed to follow its procedural rules.

[38] The second decision involves the determination of whether shelter costs under the EIA program should include the entire cost of the applicant's home insurance. The board reviewed the materials, only allowed material that was relevant to the issue to be decided and determined that the department correctly applied its policy respecting reimbursement of home insurance and the appeal was denied. The board was entitled to focus the issues for the appeals and exclude certain evidence or material that was irrelevant or not proper to be received as evidence to decide the two issues being determined.

[39] Decisions on the procedural issues were within the board's discretion and it gave reasons for any decisions made in that regard. The applicant does not identify an error in law or allege that the board erred in applying a legal principle. His arguments raise questions of fact or mixed fact and law based, in part, on an allegation that Mr. Greasley limited certain material to be reviewed by the board prior to the appeals and in response to the requests. The board was well aware of the materials and the submissions made, and the chair of the board provided comprehensive responses to the requests. In my view, the applicant has not satisfied his onus of establishing that this ground of appeal raises a true question of jurisdiction or of law and that he has an arguable case of substance to support his allegations.

[40] Another proposed ground of appeal is the applicant's allegation of bias. The applicant submits that, following delivery of the decisions, he submitted the requests. He was entitled to do so pursuant to section 22 of the

SSABA. The chair of the board signed the reconsideration decisions despite the applicant requesting a new panel or panel member to be assigned to review the requests. The chair of the board was a member of the panel that heard and decided the first decision. She was not a member of the panel that heard and decided the second decision.

[41] After the thirty-day time limit to request reconsiderations had expired, the applicant made a request that a new panel hear the requests. The policy states that "[r]econsideration requests will be reviewed by the next available panel of the Board, which may include one or more of the panel members who made the original decision" (at s 17). It also states that, if the party "would prefer not to have any original panel members, they must state this in the letter of request and give the reasons" (*ibid*). The policy does not state that the request for a new panel or a new panel member will be allowed. In my view, the board had the discretion to determine whether to assign a new panel or panel member to review the requests and was not required to assign a new panel or member unless there was a legitimate reason to do so. The reconsideration decisions state that the requests were heard by a panel of the board on April 23, 2025 and the chair of the board signed the reconsideration decisions.

[42] The test to determine whether there is a reasonable apprehension of bias is "what would an informed person, viewing the matter realistically and practically — and having thought the matter through — conclude" (*Yukon Francophone School Board, Education Area #23 v Yukon (Attorney General)*, 2015 SCC 25 at para 20 [*Yukon*], quoting *Committee for Justice and Liberty et al v National Energy Board et al*, 1976 CanLII 2 at 394 (SCC) [*CJL*]). Specifically, the test considers whether "it is more likely than not that [the

decision-maker], whether consciously or unconsciously, would not decide fairly" (*Yukon* at para 20, quoting *CJL* at 394).

[43] In a recent decision by this Court, leMaistre JA states "the presumption of judicial impartiality is not discharged by the simple fact that a judge [or decision maker] has previously rendered a judgment that is unfavourable to a party or that a party disagrees with" (*Winnipeg Regional Health Authority v Hancock*, 2025 MBCA 53 at para 5, citing *Bartel-Zobarich v Manitoba Association of Health Care Professionals (MAHCP-Bargaining Unit) et al*, 2023 MBCA 41 at paras 11-12).

[44] I am not satisfied that the allegation of bias raises an arguable ground of appeal. There is no evidence or basis to allege that the panel of the board was biased and, specifically, that they would not decide the requests fairly. Further, the reconsideration decisions provide detailed reasons for denying the requests and address the applicant's allegations. In my view, the reconsideration decisions are amply supported by the record.

[45] The final issue raised by the applicant is that the board erred in law by refusing to consider potential breaches of the *HR Code* and the *Charter*. After a careful review of the record, I am not satisfied that the facts as presented raise potential breaches of the *Charter* that are relevant to the motions.

[46] As to the alleged breaches of the *HR Code*, I note that the applicant referenced in his affidavits submitted to this Court that he has filed complaints with the MHRC. Those complaints are governed by a process set out in the *HR Code* and are not before this Court.

[47] One of the questions raised by the applicant relates to the jurisdiction of the board to hear and decide questions of constitutional law. The board refused to decide the *Charter* issues raised by the applicant on the basis that it had no jurisdiction to consider those issues, relying upon section 2 of the *ATJA*.

[48] In my view, this submission does raise a constitutional question of law as to whether the Government of Manitoba can, by legislation, limit the jurisdiction of an administrative tribunal or board to determine a question of constitutional law. As a result, I ordered that the AGC and the AGM be given notice of the applicant's challenge pursuant to section 7(2) of the *CQA*. Both the AGC and the AGM advised that they do not wish to appear and make representations to this Court on this issue at this stage of the proceedings.

[49] While I question whether the Government of Manitoba can limit the jurisdiction of a board or tribunal to determine a question of constitutional law, that legal issue cannot be decided in a vacuum without a proper evidentiary foundation. The Supreme Court of Canada, in *MacKay v Manitoba*, [1989] 2 SCR 357, 1989 CanLII 26 (SCC), stressed "The Essential Need to Establish the Factual Basis in *Charter* Cases" (at 361). Further, it explained: "In light of the importance and the impact that these decisions may have in the future, the courts have every right to expect and indeed to insist upon the careful preparation and presentation of a factual basis in most *Charter* cases" (*ibid*; see also *United States of America v Nygard*, 2024 MBCA 37 at para 146 [*Nygard*]); *Winnipeg Child and Family Services v A (J) et al*, 2003 MBCA 154 at paras 48-50).

[50] As pointed out in *Nygard*, "courts should refrain from making hypothetical *Charter* determinations when a case can be decided under well-settled legal principles" (at para 146).

[51] To advance a question of law or jurisdiction, the applicant must establish that the underlying facts support that the board violated a *Charter* right. In the motions, the applicant alleges breaches of sections 7 and 15 of the *Charter*. It is one thing to allege a breach of the *Charter* but it is quite another to provide evidence supporting the factual foundation to advance a *Charter* breach.

[52] I pause here to note that the second notices include alleged breaches of and/or reliance on several sections of the *Charter*, including sections 6, 7, 11(d), 15(1), 24(1), 32, 33 and 52(1). The motions are the originating documents requesting an extension of time for seeking leave to appeal. The second notices were filed at my direction to give notice to the AGC and AGM pursuant to the *CQA* of constitutional questions raised in the motions. The second notices must be restricted to determine whether the constitutional questions in the motions raise an arguable ground of appeal with a reasonable prospect of success. Other submissions in the second notices are not properly before this Court for determination.

[53] The motions raise alleged breaches of sections 7 and 15 of the *Charter*. Those sections state:

Life, liberty and security of person **7** Everyone has the right to life, liberty and security of the person and the right not to be	**Vie, liberté et sécurité** **7** Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en

deprived thereof except in accordance with the principles of fundamental justice.	conformité avec les principes de justice fondamentale**.**
Equality before and under law and equal protection and benefit of law **15 (1)** Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.	**Égalité devant la loi, égalité de bénéfice et protection égale de la loi** **15 (1)** La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.
Affirmative action programs **(2)** Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.	**Programmes de promotion sociale** **(2)** Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation d'individus ou de groupes défavorisés, notamment du fait de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion, de leur sexe, de leur âge ou de leurs déficiences mentales ou physiques.

[54] The underlying facts simply do not support that the applicant has an arguable case with a reasonable prospect of success that the board breached the *Charter*.

[55] The applicant's *Charter* arguments are not entirely clear. This is due, in part, to the applicant's frequent conflation of the first decision, the second decision and the reconsideration decisions. An appeal pursuant to section 23(1) of the *SSABA* only addresses decisions of the board and is limited to either a question regarding the board's jurisdiction or a point of law.

[56] Some of the arguments advanced by the applicant are made in reference to the department's decisions to deny his claims, as opposed to the board's decision to uphold those decisions.

[57] The applicant also appears to conflate alleged *Charter* breaches arising from the imposition of the Alberta sanction and administrative sanctions in Manitoba with the jurisdiction of the board to rule on eligible expenses for EIA. As pointed out by the board, it had no jurisdiction to address the alleged breaches dealing with the conduct of the Calgary Police Service, the Alberta sanction or the impaired driving regulation, and policies of the Government of Manitoba or of MPI. I agree.

[58] I will briefly address the alleged *Charter* breaches raised in the applicant's material and in oral submissions advanced in this Court. In essence, the applicant submits that the board arbitrarily rejected and failed to consider key evidence and submissions filed in support of the appeals, thereby denying procedural fairness and natural justice and breaching sections 7 and 15 of the *Charter*.

[59] Determining whether section 7 of the *Charter* has been infringed is explained in the Canadian Encyclopedic Digest (CED 4th, *Constitutional,* "The Constitution Act, 1982: Canadian Charter of Rights and Freedoms:

Right to Life, Liberty and Security of Person" at § 161 (January 2026)) as follows:

> A determination of whether section 7 has been infringed consists of three main stages: (a) whether there is a real or imminent deprivation of life, liberty, and security of the person or a combination of those interests; (b) identifying and defining the relevant principle or principles of fundamental justice; and (c) whether the deprivation has occurred in accordance with the relevant principles or principles.

[60] Further, as explained by the Supreme Court in *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44 [*Blencoe*], "if no interest in the [applicant]'s life, liberty or security of the person is implicated, the s. 7 analysis stops there" (at para 47).

[61] I am not satisfied the applicant has raised an interest that affects his life, liberty or security of the person. To the extent that the applicant argued that the board's "concealment of critical appeal information" deprived him of his section 7 right to security of the person because it caused him "significant emotional, psychological, and financial distress", courts have been clear that state-imposed psychological stress underlying a section 7 argument must be severe (see *Winnipeg Child and Family Services v KLW*, 2000 SCC 48 at paras 85-87; *Blencoe* at para 58).

[62] I am not satisfied that the applicant has demonstrated that the board committed a wrongdoing, as he has alleged, or that the impugned action directly harmed him by causing serious and profound effects on his psychological integrity.

[63] Further, while the applicant argued that he was deprived of his right to security of the person because the board's actions caused him financial distress, the courts have placed limits on the application of section 7 of the *Charter* when addressing damage to property or economic rights (see *Tanase v College of Dental Hygienists of Ontario*, 2021 ONCA 482; *Reference re ss 193 and 195.1(1)(c) of the Criminal Code (Man)*, [1990] 1 SCR 1123, 1190 CanLII 105 (SCC); *Irwin Toy Ltd v Quebec (Attorney General)*, [1989] 1 SCR 927, 1989 CanLII 87 (SCC)).

[64] While the applicant alleges that the decisions caused him financial distress, the record fails to demonstrate that the board committed the alleged wrongdoing and that it deprived him of economic rights fundamental to human survival that are required to ground a section 7 *Charter* breach.

[65] Accordingly, in my opinion, the record does not support that the applicant has an arguable case with a reasonable prospect of success that the board breached section 7 of the *Charter*.

[66] The applicant alleges that he is a person with a disability who relies on EIA. Neither the board nor I question that the applicant suffers from a disability. To establish discrimination, the onus is on the applicant to prove that the state action or policy, "on its face or in its impact, creates a distinction based on enumerated or analogous grounds" and "imposes burdens or denies a benefit in a manner that has the effect of reinforcing, perpetuating, or exacerbating disadvantage" (*Fraser v Canada (Attorney General)*, 2020 SCC 28 at para 27).

[67] The evidence does not establish that the actions or conduct of Mr. Greasley or the board impacted the applicant such that they created a

distinction based on his disability. In my view, EIA is a program that is justified under section 15(2) of the *Charter* as it "has as its object the amelioration of conditions of disadvantaged individuals". The applicant does not specify or prove which "policies disproportionately disadvantage socially marginalized individuals" or how the board policies did so.

[68] The actions or conduct of Mr. Greasley or the board did not impose a burden or disadvantage that is not imposed on others receiving EIA. The applicant has failed to establish that the conduct of Mr. Greasley or the board was discriminatory. They performed their duties and responsibilities in accordance with the statutory framework of the *SSABA* and the board's policies and procedures for hearings.

[69] The evidence demonstrates that the applicant was given advice regarding what was relevant material for his appeals, was given an opportunity to file extensive material, appeared and made oral submissions to the board, and then challenged the decisions pursuant to his right to a reconsideration. The board considered his appeals and the requests within its statutory framework and provided comprehensive reasons for dismissing his appeals and the requests, and there is simply no arguable basis that the applicant's section 7 or section 15 *Charter* rights were violated.

[70] Had I been satisfied that the underlying facts supported an arguable case that there had been a breach of the *Charter*, it would have been appropriate to grant leave to address the constitutionality of section 2 of the *ATJA*. For the foregoing reasons, it is unnecessary to do so on the motions.

Conclusion

[71] I am not satisfied that the applicant raises an arguable ground of appeal and that it is right and just in all the circumstances that the time for seeking leave to appeal be extended in this case. The applicant has not satisfied the test to be granted an extension or granted leave to appeal pursuant to section 23(1) of the *SSABA*. The grounds of appeal are largely fact-driven and do not raise questions of jurisdiction or of law. Further, I am not satisfied the proposed appeals warrant the attention of this Court as they do not raise an arguable case of substance.

[72] In the result, the motions are dismissed. The directors did not seek an order of costs and, since the applicant is on social assistance, no order of costs is made.

Edmond JA