

**Building Accessibility Appeal Tribunal
"Government Modernization and Service Delivery"**

In the matter of an appeal by [REDACTED] appealing the decision of The Department
of Government Modernization and Service Delivery

Appeal Hearing
Thursday, June 19, 2025

Virtual Hearing
St. John's, NL

APPELLANT:

[REDACTED]

RESPONDENT:

DAVID BROCKERVILLE
Director
Department of Government Modernization
and Service Delivery

TRIBUNAL MEMBERS:

MICHAEL H DUFFY – CHAIR
MARY O'BRIEN -Tribunal member
M KIRK SAUNDERS - Tribunal member
DEBBIE RYAN - Tribunal member

BACKGROUND

The Hearing convened at 10 AM on June 19, 2025 virtually. The Tribunal heard from the Appellant in relation to the eight items of appeal, listed at Schedule "A" to this decision.

The Hearing adjourned at approximately 11:30 AM and the Tribunal retired to consider its decision.

The decision from which the appeal was made was delivered April 10, 2025 and the Appellant was to have filed an appeal within 30 days of that date. Therefore, to have been in time, the appeal ought to have been received by the authority no later than Saturday, May 10, 2025. May 10, 2025 fell on a Saturday which is not a business day. However, the question of whether the

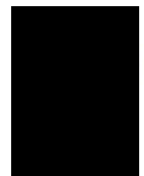
[REDACTED]

appropriate filing dates are to have been May 9 or 12th is moot, as the record before the Tribunal discloses the appeal was not received until May 15, 2025.

The appeal not having been made within the required 30-day period, the Tribunal finds that it does not have jurisdiction to make a decision on the appeal as the Right of Appeal expired prior to the Notice of Intent to Appeal being received.

The Tribunal notes that it did hear from the Appellant in relation to all the matters of appeal including the issue of the date when the Intent to Appeal was received. The Tribunal confirms the Appellant agreed during argument to withdraw his objection to appeal items 1, 4, 5 and 7. The position of the Appellant before the Tribunal in relation to items 2, 3, 6 and 8 was that he believed there may be an exemption or exemptions available to him in relation to these items. His argument was the items relate to an entry door and washrooms, which pre-existed his renovation to, and occupancy of, the building in which they are located.

There was no evidence provided to the Tribunal beyond the suggestion that an exemption may be available. The Tribunal requested that information during the hearing however on deliberation and reflection, the Tribunal concluded that it can only make decisions based on the record before it in the time of hearing. Although, not in a position to make a decision due to the matter being out of time, if the Tribunal were to make a decision with respect to exemptions, based upon the record before it at the hearing it would necessarily find that there was not sufficient evidence of any exemption presented to the Tribunal upon which to determine any exemption was available. Accordingly, the Tribunal would find that no exemption had been established.



Again, although not in a position to make a ruling on the matters of appeal numbered 2, 3, 6 and 8, based upon the evidence presented and arguments made, if the Tribunal were to make a decision on those items, the Tribunal would find that it would be appropriate to confirm the order requiring the Appellant to make the modifications noted in those items. The regulations applicable to the improvements noted on matters of appeal numbered 2, 3, 6 and 8, require those improvements to meet the minimum standards noted in the orders previously made.



SUMMARY & ORDER

The appeal was not Filed within the time allowed for appeal, and therefore a decision cannot be made by the Tribunal, as the right of appeal expired prior to the appeal being received.

If the Tribunal were to make a decision, it would confirm the orders made from which the appeal was sought.

If the Tribunal were to make a decision it would find there was not sufficient evidence of entitlement to any exemption presented to the tribunal.

Respectfully Submitted,


Michael H Duffy,

Chairman, Building Accessibility Appeal Tribunal Council

_____- I concur.
Mary O'Brien

_____- I concur.
M Kirk Saunders

_____- I concur.
Debbie Ryan

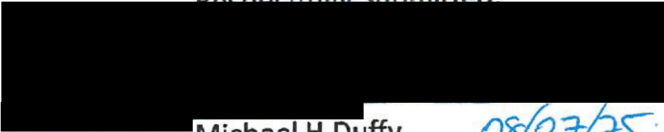
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Respectfully Submitted


Michael H Duffy,

08/07/25

Chairman, Building Accessibility Appeal Tribunal Council

_____- I concur.

Mary O'Brien

- I concur.

08/07/25

M Kirk Saunders

_____- I concur.

Debbie Ryan

SUMMARY & ORDER

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If the Tribunal were to make a decision, it would confirm the orders made from which the appeal was sought.

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Respectfully Submitted,


Michael H Duffy, 08/07/25
Chairman, Building Accessibility Appeal Tribunal Council


Mary O'Brien

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_____- I concur.
M Kirk Saunders

_____- I concur.
Debbie Ryan

From: Debbie Ryan [REDACTED]
Sent: Tuesday, July 15, 2025 11:14 AM
To: Heystee, Bryan, [REDACTED]
Subject: Re: Buildings Accessibility Appeal Tribunal Draft Decision
Attachments: BAAT - Draft Decision - 2025-07-08.pdf

Yes, I approve.

From: Heystee, Bryan <BryanHeystee@gov.nl.ca>
Sent: July 15, 2025 10:24 AM
To: Debbie Ryan [REDACTED]
Subject: RE: Buildings Accessibility Appeal Tribunal Draft Decision

Hi Debbie,

Just writing to follow up on this matter. Have you had a chance to review the draft decision? If so and you have no concerns, could you please provide a copy of your signature? If you do not have access to a scanner or cannot provide your signature for some other reason, an email stating your agreement with the draft decision will suffice.

Thank you,

Bryan

SCHEDULE "A"

From: Brockerville, David
To: [REDACTED]
Cc: Gillam, Christopher; Pickett, Jeff
Subject: RE: Accessibility NL appeal requested.
Date: Thursday, April 10, 2025 2:32:26 PM

Good Day [REDACTED]

I am writing in reply to your appeal of the eight orders in red below received on Feb 17, 2025. These orders were extracted from reports CB-25-007(1) dated Feb 7 2025 and CB-25-007(2) dated Feb 17 2025. In considering these appeals I have spoken with the inspector, reviewed the information received from the region and the buildings accessibility regulations and taken the following into account:

- According to the information received from the Government Service Centre located in Corner Brook, the drawing registered on February 16, 2023 references BA-002410C;
- The registered drawing references both "Clinic" and "Café";
- The requirements subject to appeal are located in the regulations;
- The book "Building Better Bathrooms: Connecting real stories with the details you need for truly accessible results" authored by Julie Sawchuk is not adopted in the Buildings Accessibility Regulations.

My appeal decisions under section 17 of the Buildings Accessibility Act are as follows:

Appeal 1

Order: Toilet is greater than 480mm from the wall (center line)

- Section 27(c) of the regulations schedule requires a toilet located so that its centre line is not less than 460 millimetres and not more than 480 millimetres from an adjacent side wall on one side.
- It is my decision to confirm this order.

Appeal 2

Order: Toilet doesn't have clear space of 900mm adjacent to the toilet (Section 30(f))

- Section 30(f) of the regulations schedule requires a clear space of at least 900 millimetres wide adjacent to the toilet.
- It is my decision to confirm this order.

Appeal 3

Toilet is higher than 460mm above the floor (Section 28(a))

- Section 28(a) of the regulations schedule requires toilets to be equipped with seats located at not less than 400 millimetres and not more than 460 millimetres above the floor.
- It is my decision to confirm this order.

Appeal 4



Grab bar at the side of the toilet is too short

- Section 27(d) of the regulations schedule requires a grab bar to be mounted horizontally on the side wall closest to the toilet and shall extend not less than 450 millimetres in both directions from the forwardmost point of the toilet.
- It is my decision to confirm this order.

Appeal 5

The counter in the clinic does not have an accessible area. (Section 33)

- Section 33(1) of the regulations schedule requires all counters serving the public to have at least one barrier-free section and where a counter has more than one service area each service area shall have a barrier-free section.
- It is my decision to confirm this order.

Appeal 6

Toilet is higher than 460mm above the floor (Section 28(a))

- Section 28(a) of the regulations schedule requires toilets for persons with disabilities to be equipped with seats located at not less than 400 millimetres and not more than 460 millimetres above the floor.
- It is my decision to confirm this order.

Appeal 7

The door between the Clinic and the Cafe do not have clearances beyond the latch (Section 18(9))

- Section 18(9) of the regulations schedule requires every door in a barrier-free path of travel, except power operated, to have a clear space beyond the latch side as specified in this section.
- It is my decision to vary this order as follows: **Unless equipped with a power door operator complying with the NBC, the door between the clinic and café shall have a clear space on the latch side extending the height of the doorway and comply with section 18(9) of the buildings accessibility regulations schedule.**

Appeal 8

Door operating devices (main doors) do not meet section 18(3) of the BA Regs

- Section 18(3) of the regulations schedule requires door operating devices to be of a design which does not require tight grasping and twisting of the wrist as the only means of operation.
- It is my decision to confirm this order.

You have the right to appeal the eight decisions above to the Buildings Accessibility Appeal Tribunal in accordance with Section 23(1) of the Act by giving written notice within 30 days from the date of this decision to:

The Buildings Accessibility Appeal Tribunal



Digital Government and Service NL
Confederation Building, 2nd Floor, West Block
P.O. Box 8700
St. John's, NL
A1B 4J6
Attention: K. Gail Boland, ADM

Please note, in accordance with Section 29 of the Act, "An appeal under Section 17, 23, or 26 shall not affect the notice, decision, direction, or order appealed against and that notice, decision, direction, or order shall remain in force pending the outcome of the appeal"

Sincerely,
David

