COMMUNITY ADVOCACY & LEGAL CENTRE NEWSLETTER

CALC NEWS

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Victory at the Divisional Court: Social Benefits Tribunal must look at the whole person when deciding to set a medical review

This important decision from the Divisional Court confirms that the Social Benefits Tribunal must consider the "whole person" both when determining whether a person has a disability *and* when deciding to set a medical review under the *Ontario Disability Support Program (ODSP) Act* and regulations.

Background

The Applicant, "L.F."[1] had many medical conditions, including PTSD, persistent depressive disorder and generalized anxiety as well as five other conditions. When they applied for ODSP, they were denied. L.F. appealed to the Social Benefits Tribunal.

Divisional Court

L.F. (represented by Lisa Turik and Karen McClellan at CALC) filed a consolidated appeal and judicial review application to Divisional Court. In her application, L.F. challenged the decision to set a medical review for one year (or at all) as unreasonable. L.F. argued that in setting a one-year review date the Tribunal failed to look at all the evidence about their disabilities, failed to apply the "whole person" approach, and that the Tribunal further erred in refusing to reconsider its decision. L.F. contended that the medical review process was incredibly stressful as it would re-open their eligibility and the risk of losing their benefits.

The Court granted L.F.'s application and found that the Tribunal had to take a "whole person" approach and consider all the evidence before it in deciding to set a medical review. The Court found that the medical evidence in L.F.'s case did "not reasonably support a one-year medical review". The Court also found the Tribunal erred in law and was unreasonable in refusing to consider a reconsideration request.

Precedent-setting case

This case is important because it is the first time the Divisional Court has addressed how the Social Benefits Tribunal sets medical review dates in ODSP cases. It confirms that the Tribunal must consider the evidence before it when deciding whether a review is warranted and when it should occur, and that its decision on timing must be reasonable. This matters a lot in practice. Every year, our clinic speaks to many clients who have no healthcare provider to complete the medical review forms. Many of them have longstanding and serious disabilities. For them, a review date set only one or two years after benefits are granted can mean an unnecessary and stressful process that puts their income support at risk. We hope this decision will lead the Tribunal to set review dates that reflect each person's medical evidence, so that fewer people face early, avoidable reviews.

The appellant/applicant in ***L.F.*** was represented by Karen McClellan and Lisa Turik (CALC – Belleville), and the matter was argued at Divisional Court by CRO Barrister Lesli Bisgould.

Read the Court's decision: LF v Director of the Ontario Disability Support Program, 2026 ONSC 5660 (CanLII), <https://canlii.ca/t/knm5m>.

[1] The decision in this case is subject to an anonymity order



We would like to welcome our 2 new Articling Students, who will each be with us until early 2027. Elenor started in June and Kristian arrived in October!

Employment Insurance (EI) and minimum wage updates

EI Temporary Measures Updated & Extended

The Government announced temporary EI measures to provide greater supports for workers due to significant changes in economic conditions.

The temporary measures originally scheduled to end on October 10, 2026, have been extended to October 9, 2027.

These temporary measures for EI benefits include:

- removal of the one week waiting period (for claims between March 30, 2025 and October 9, 2027)
- no deduction of severance or other separation payments on leaving your job (for claims between March 30, 2025 and October 9, 2027)
- additional 20 weeks of EI regular benefits (up to a maximum of 65 weeks) if you receive regular benefits for at least one week, and

  (a) you have less than 36 weeks of EI regular or fishing benefits in the past 3 years before your claim

  (b) you paid at least 30% of the annual maximum EI premium for 7 of the 10 years before your claim (for claims between June 15, 2025 and June 12, 2027)

New temporary measures:

- For EI claims between October 11, 2026, and October 9, 2027: if you left your most recent job through no fault of your own, then you can get EI based on all insurable earnings and hours during the qualifying period.
  - Only your most recent reason for loss of employment will be reviewed in your qualifying period
  - If you had earlier employment in your qualifying period, these can be included even if you were terminated due to misconduct and/or quit without just cause (i.e. reasons that EI may consider to be your fault and which may have resulted in these earlier periods being excluded)

Minimum Wage Increase effective October 1, 2026:

- General minimum wage: $17.95/hour
- Student minimum wage: $16.90/hour
- Homeworkers minimum wage: $19.70/hour
- Hunting, fishing and wilderness guides minimum wage:
  - $89.75: working less than 5 consecutive hours in a day
  - $179.50: working 5 or more hours in a day whether or not the hours are consecutive

For more information, visit:

Ministry of Labour, Immigration, Training and Skills Development, Your guide to the *Employment Standards Act* – Minimum Wage: https://www.ontario.ca/document/your-guide-employment-standards-act-0/minimum-wage

Limited scope retainers in family law

In Canada, approximately 65% of family law cases feature a self-represented party. Typically, this is because the party can't afford to hire a lawyer but doesn't qualify for Legal Aid. It can be intimidating and overwhelming to have to prepare documents, file them, and represent yourself in front of a judge.

One option is finding a lawyer who will do a "limited scope service" (LSS). In LSS arrangements a lawyer agrees to work with the client on specific parts of a case for a fee. For example, the lawyer might agree to draft and file an initial court application or represent on an urgent motion. With LSS arrangements, a client decides how and when they want to pay for legal services. This can make getting legal advice financially manageable.

There is a registry of Ontario lawyers offering LSS. Some lawyers not on the registry may still be willing to work with clients on an LSS basis. If you are considering hiring a lawyer on a LSS basis, it is important that you discuss clearly what services will be provided and how costs will be calculated. This will usually be set out in a retainer agreement both lawyer and client sign.

CALC provides support in some cases to people who have experienced intimate partner violence (IPV) and now want a divorce but cannot take the steps on their own. Divorce is the final step to end a legal marriage, and we can only assist once all other issues are resolved. If you have experienced IPV, contact us to learn more about how to get a divorce.

Important changes to Ontario's rental laws

Ontario changed some of its rental laws on September 21, 2026. Many of these changes affect how landlords can evict tenants and what tenants can do when they are facing eviction.

Here are some important changes you should know.

Shorter eviction notices

If you owe rent, your landlord can give you an N4 eviction notice. An N4 eviction notice used to give tenants 14 days to pay off the unpaid rent.

Now, you only have 7 days to pay off outstanding rent. This means you have less time to pay your rent before your landlord can ask the Landlord and Tenant Board (LTB) to evict you.

Raising problems at an unpaid-rent hearing

If your landlord files to evict you for unpaid rent, you are entitled to an eviction hearing at the LTB.

At these eviction hearings, you can also bring up problems with your landlord, such as repairs that were not done.

There are now extra rules for doing this. As of September 21, 2026, you must pay your landlord half of the rent they say you owe at least 7 days before the hearing. You must also still tell your landlord and the LTB about the problems you want to raise.

When your landlord wants to move into your rental unit

A landlord can ask you to move out because they or certain family members want to move into your rental unit for at least one year. They do this by giving you a form called an N12.

In the past, your landlord normally had to pay you one month's rent as compensation or offer you another place to live.

The rules have changed. If your landlord gives you at least 120 days' notice to move out, they do not have to pay you compensation or offer you another place to live. If they give you less than 120 days' notice, the compensation rules still apply.

Also, the person named on the N12 must normally move into your home within 60 days of the move-out date on the N12. If they do not move in on time, the landlord may have acted in bad faith. You can ask the LTB to decide if the landlord acted in bad faith by filing a T5 application.

When you must move out for renovations

A landlord can sometimes ask you to move out because major repairs or renovations need to be done. They do this using a form called an N13.

You have the right to move back into your home after the work is finished. You must tell your landlord in writing that you want to move back in. As of September 21, 2026, your landlord must keep you updated about when the work will be finished.

If the work is completed on or after September 21, 2026, your landlord must give you 60 days to move back in. If your landlord does not follow these rules, you may be able to file a T5 with the LTB.

Other important changes include:

- **Paying rent late:** If you pay rent more than 7 days late at least 3 times in 6 months, your landlord may try to evict you for paying rent late too often. Your landlord may also try to evict you for repeated late payments in other cases.
- **Cancelling an eviction order**: If the LTB orders your eviction without a hearing because you agreed to move out or gave notice that you would move out, it may be harder to cancel that order. The LTB cannot consider changes in your situation that happened after you agreed or gave notice to move out.
- **Delaying an eviction:** It may now be harder to get the LTB to delay an eviction order. You must show the LTB that there are strong reasons to delay your eviction and that the delay would not be unfair to your landlord or other tenants.

If you are having issues with your landlord, call us (press ext. 0)!

TENANT HOTLINE
613-966-8686 or
1-877-966-8686
Monday – Friday
9:00 am – 12:00 pm &
1:00 – 5:00 pm

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COMMUNITY ADVOCACY & LEGAL CENTRE

158 George Street, Level 1
Belleville, Ontario K8N 3H2

Phone: 613-966-8686
Toll-Free Phone: 1-877-966-8686
Fax: 613-966-6251
Email: contact@calc.clcj.ca

www.communitylegalcentre.ca

http://x.com/calctweets

http://www.facebook.com/CommunityLegalCentre

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Changing the game: Narrowing eligibility rules for immigrants on social assistance

New regulations to Ontario Works ("OW") and Ontario Disability Support Program ("ODSP") took effect on August 13, 2026, that create restrictions to eligibility based on immigration status. These changes to social assistance eligibility are raising concerns as they represent a shift away from supporting some of the province's most vulnerable people.

The Old and New Rules

Under the old rules, only a few groups of people were excluded from receiving social assistance because of their immigration status. Now, the rules exclude more groups of people.

What Does This Mean?

By narrowing the eligibility, the new regulations hurt individuals in unique or complex situations. The rules penalize people with temporary status simply trying to rebuild their lives and people with precarious status who cannot return abroad. For example:

- Helena enters Canada as a visitor because she was promised work by an agency in her home country. Instead, she becomes a victim of human trafficking in Canada. After her escape she is granted a special "Temporary Resident Permit" by immigration. Under the old rules, this Permit would allow her to access social assistance. Under the new rules, she would not qualify for social assistance.
- Mary was living in Canada as a student when she met and married a Canadian citizen. They have two children born in Canada. After living in Mary's home country for a few years, they decide to all move back to Canada. Mary's husband promises to sponsor her. Mary's husband begins abusing her after they arrive back in Canada. She leaves him. She is now living in a shelter with her two children. She is engaged in a custody dispute so she cannot return to her home country with her children. She is not getting any child support. Under the new rules, she would not qualify for social assistance.
- Hansen is stateless - his home country no longer exists. He cannot work because of his disabilities, and he does not have the money to do an application that would help regularize his immigration status. Under the new rules, he would not qualify for social assistance.

The impact of these changes is very serious.

If you have any questions about how these changes impact your OW or ODSP payments, or if you get any letters from OW or ODSP about your payments or immigration status, please contact CALC for advice.

(With credit to clinic system colleagues Gillian Reiss, Nir Gepner, and Robin Nobleman for the examples used in this article.)

Join us as a Board member!

If you would like to support the clinic or know someone that might be interested in supporting the clinic by standing for election to our Board of Directors, you can find out more on our website or by contacting our Office Manager Lynda Morgan by phone (ext. 25) or by email lynda.morgan@calc.clcj.ca.

We would welcome applicants throughout our geographic service area including Lennox & Addington, North Hastings, Prince Edward County or from the Tyendinaga Mohawk Territory.

The information in this newsletter is not legal advice. If you have a legal problem in any of the areas of law mentioned in this newsletter, please contact us or a community legal clinic near you.