

No: \_\_\_\_\_  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**  
*Re: Judicial Review Procedure Act,  
Employment and Assistance Act and  
Employment and Assistance for Persons with Disabilities Act*

**BETWEEN:**

**MARY SMITH**

**PETITIONER**

**AND:**

**EMPLOYMENT AND ASSISTANCE APPEAL TRIBUNAL and  
MINISTRY OF EMPLOYMENT AND INCOME ASSISTANCE**

**RESPONDENTS**

**PETITION TO THE COURT**

THIS IS THE PETITION OF:

Mary Smith  
124 Main Street  
Vancouver, BC  
V6L 3L9

ON NOTICE TO:

Ministry of Employment and Income Assistance  
Attorney General of British Columbia  
Legal Services Branch  
6<sup>th</sup> Floor, 1001 Douglas Street  
Victoria, BC V8V 1X4

Employment and Assistance Appeal Tribunal  
PO Box 99924  
Stn Prov Govt  
Victoria, BC V5W 9R7

Let all persons whose interests may be affected by the order sought **TAKE NOTICE** that the Petitioner applies to the Court for the relief set out in this Petition.

## APPEARANCE REQUIRED

**IF YOU WISH TO BE NOTIFIED** of any further proceedings, **YOU MUST GIVE NOTICE** of your intention by filing a form entitled “Appearance” in the above registry of this Court within the Time for Appearance and **YOU MUST ALSO DELIVER** a copy of the “Appearance” to the Petitioner’s address for delivery, which is set out in this Petition.

**YOU OR YOUR SOLICITOR** may file the “Appearance”. You may obtain a form of “Appearance” at the registry.

**IF YOU FAIL** to file the “Appearance” within the proper Time for Appearance, the Petition may continue this application without further notice.

## TIME FOR APPEARANCE

Where this petition is served on a person in British Columbia, the time for appearance by that person is **7 days** from the service (not including the day of service).

Where this petition is served on a person outside British Columbia, the time for appearance by that person, after service is **21 days** in the case of a person residing anywhere within Canada, **28 days** in the case of a person residing in the United States of America, and **42 days** in the case of a person residing elsewhere. [or, where the time for appearance has been set by Order of the Court, within that time.]

## TIME FOR RESPONSE

**IF YOU WISH TO RESPOND** to the application, you must, on or before the 8<sup>th</sup> day after you have entered an APPEARANCE,

- (A) deliver to the petitioner
  - (i) 2 copies of a response in Form 124, and
  - (ii) 2 copies of each affidavit on which you intend to rely on at the hearing, and
  
- (B) deliver to every other party of record
  - (i) one copy of a response in Form 124, and
  - (ii) one copy of each affidavit on which you intend to rely on at the hearing.

	The address of the registry is:
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(1)	The Law Courts 800 Smithe Street Vancouver, BC V6Z 2E1
(2)	The address for delivery is:  124 Main Street Vancouver, BC V6L 3L9  Fax number for delivery is: (604) 555-1212
(3)	The name and office address of the petitioner is:  Mary Smith 124 Main Street Vancouver, BC V6L 3L9

The Petitioner applies for an order:

1. That the order of the Employment and Assistance Appeal Tribunal dated March 26, 2003 be set aside and the matter remitted back to that tribunal with directions;
1. An order for costs;
2. Such other order as seems just.

The Petitioner will rely on:

1. Rule 51(a);
2. *Judicial Review Procedure Act*; and
3. *Employment and Assistance for Persons with Disabilities Act*
4. *Employment & Assistance Act*

At the hearing of the Petition will be read the affidavit of Mary Smith, a copy of which is served herewith.

The grounds on which this application is brought are as follows:

1. The Tribunal erred in jurisdiction and law in refusing the Petitioner the right to have an advocate to represent her at the hearing.
2. The Tribunal erred in jurisdiction and law in refusing to consider the accumulative effects of all the disabilities of the Petitioner.

The facts upon which this Petition is based are as follows:

1. The Petitioner, Mary Smith, is 46 years of age and has been on income assistance since 1999.
2. Ms. Smith has multiple disabilities. These include, diabetes, depression and a back injury from a car accident. Her illness has deteriorated overtime.
3. On January 3, 2003, she sent in an application for an enhanced disability allowance under the *Employment & Assistance Persons with Disabilities Act*.
4. On March 3, 2003, she was turned down by the Ministry of Employment and Income Assistance ("the Ministry") for this disability benefit.
5. The Ministry held that each of her individual disabilities were not severe enough for an enhanced disability allowance. The Ministry looks at each individual disability, but does not look at the accumulative effect of all the disabilities.
6. On March 10, 2003, Ms. Smith filed a *Request for Reconsideration*. Ms. Smith filed with the *Request for Reconsideration*, a letter from her doctor, Dr. Kildare, dated March 7, 2002. This letter stated that the accumulative effect of all her disabilities was severe.
7. On March 18, 2003 the Ministry turned down her *Request for Reconsideration* basically on the same reasons that the original application was turned down.
8. On March 19, 2003 she filed an appeal with the Employment Assistance Appeal

Tribunal.

9. On March 26<sup>th</sup>, 2003 an Employment Assistance Appeal Tribunal convened to hear her appeal.
10. As the appeal started, Ms. Smith introduced her advocate, John Jones, who was going to represent her at the hearing. The Chairperson refused to let John Jones be her advocate on the grounds he was not a lawyer and ordered him out of the hearing room.
11. On the same day, the Employment Assistance Appeal Tribunal issued the following the decision:

*We have considered all the evidence. Mary Smith has multiple disabilities including, diabetes, depression and a severe back problem. However, none of these disabilities are severe by themselves. We do not consider the cumulative effect of all the disabilities.*

The Petitioner estimates that the application will take 2 hours.

Dated: April 3, 2003

MARY SMITH  
[Petitioner's Signature]

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OF MARY SMITH**

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**Mary Smith  
124 Main Street  
Vancouver, BC  
V6L 3L9**

**Telephone: 604-666-5555**