

**SUPERIOR COURT OF JUSTICE – ONTARIO
DIVISIONAL COURT**

RE: JEVGENI NATOTSIJEV and IRINA NATOTSIJEVA, Appellants

AND:

DIRECTOR OF THE ONTARIO DISABILITY SUPPORT PROGRAM,
Respondent

BEFORE: D.L. Corbett, Matheson and Mew JJ.

COUNSEL: *Self-Represented Appellants*

Mimi Singh, for the Respondent

HEARD: May 28, 2026, in Toronto

ENDORSEMENT

[1] Jevgeni Natotsijev and Irina Natotsijeva appeal to this Court from the decision of the Social Benefits Tribunal dated October 31, 2024 (the Decision). The Tribunal concluded that it lacked the jurisdiction to adjudicate the issues raised by the appellants and made no order.

[2] By way of brief background, in July 2023, the Director of the Ontario Disability Support Program (ODSP) decided to cancel the appellants' income support because their income from other sources exceeded the threshold for entitlement to ODSP. The appellants were given notice of their right to request an internal review, which had to be requested within 30 days and, if late, had to be accompanied by reasons explaining the delay. The Director did not give an extension of time. Although disputed by the appellants both before the Tribunal and in this Court, the Director found that the Appellants were late. No explanation had been provided. The extension was denied.

[3] The appellants then sought to appeal the decision to cancel their ODSP benefits to the Tribunal. The Director raised a preliminary jurisdiction issue because there had not been an internal review. In case management of the appeal, the Tribunal directed that the preliminary jurisdiction issue would proceed first, in writing. This process decision was made having regard for all the circumstances including two adjournments of in-person hearings. The appellants filed very lengthy written materials for the written hearing. In their appeal materials, the appellants raised many issues, including their position that they were not actually late and arguments regarding previous Tribunal decisions about their benefits.

[4] As set out in the Decision, the Tribunal considered the evidence and found that the appellants were late. The Tribunal then held that it had no jurisdiction to proceed with the appeal. The Tribunal applied *Walsh v. Ontario (Disability Support Program)*, 2012 ONCA 463. At paras. 55 and 58, *Walsh* holds that the decision to deny a request to extend the time to seek an internal review is not appealable to the Tribunal and the Tribunal cannot consider an appeal from the Director's decision to end the benefits without an internal review.

[5] The appellants made two requests for reconsideration at the Tribunal, which were denied.

[6] The appellants exercised their right of appeal to this Court, which is limited to questions of law: s. 31(1), *Ontario Disability Support Program Act, 1997*, S.O. 1997, c. 25, Sch B. On this appeal, the appellants submit that they were denied procedural fairness at the Tribunal and submit that the Tribunal erred in its Decision. The standard of review is correctness.

[7] The appellants have raised numerous issues on this appeal, all of which we have considered. As noted by the respondents, many of those issues are outside the proper scope of the appeal. We address what we conclude are the key issues below.

[8] With respect to procedural fairness, the appellants submit that fairness required that the Tribunal hearing be conducted in person, and that they have the assistance of a Russian interpreter at the hearing. The Tribunal addressed this request in two case management directions, the first of which directed the in-writing hearing and the second addressed the appellants' objection to that process at length.

[9] In summary, the Tribunal noted that this hearing was on the preliminary jurisdictional issue and a paper hearing was appropriate given the history of the matter including the prior difficulties completing a hearing. The appellants had made objections to both telephone and videoconference hearings, and the two in-person dates that had been scheduled in response to their request for that form of hearing had to be postponed due to the ill health of one of the appellants. Further, the Tribunal found that since commencing their appeal, the appellants had no difficulties communicating in writing, including lengthy and detailed written submissions. We are not persuaded that the in-writing process was unfair in the circumstances of this case.

[10] The appellants further suggest that the Director wrongly changed documents after the fact. We reject these allegations of wrongdoing, which are completely without foundation. The appellants further suggest that the Member who made the first case management direction for an in-writing hearing was biased because of his reasons and because he had previously presided on another Tribunal decision that found against them. Neither objection gives rise to a reasonable apprehension of bias on the record before this Court.

[11] The appellants also submit that they should have had a right of reply to the Director's submissions before the Tribunal reached its Decision. The appellants have not shown that a reply was required despite having a full opportunity to put forward any additional arguments in their appeal to this Court.

[12] We therefore conclude that there was no procedural unfairness. The Tribunal has the discretion to control its process and the right to be heard does not require an in-person hearing in every case. In this case, the decision to have an in-writing hearing was well-supported by the demonstrated abilities of the appellants to proceed in that way and the procedural history of the appeal.

[13] The appellants raise several other issues about the Decision, which substantially overlap with the issues that they raised before the Tribunal. Their primary issue is their position that they were not, in fact, late in requesting the internal review. The appellants have made detailed submissions about their evidence in support of their position. These submissions also include the ill-founded suggestions of wrongdoing.

[14] With respect to this timeliness issue, the Tribunal addressed the evidence and factual issues in detail in its Decision, concluding that the appellants were late. The Tribunal's findings of fact, which were open to it on the evidence, cannot be challenged in this appeal.

[15] In addition, before the Tribunal and in this Court, the appellants attempted to reopen and mischaracterize old Tribunal decisions, including the erroneous suggestion that a prior Tribunal decision from 2019 had the effect of granting permanent eligibility for ODSP. The appellants rely heavily on the 2019 decision, which they submit is the root of the problem. They submit that there is therefore no jurisdictional issue because they are relying on that 2019 decision.

[16] It appears that the appellants misunderstand their appeal rights. Their attempted appeal to the Tribunal, giving rise to the Decision, was specific to the 2023 decision to discontinue benefits, not an earlier decision. In turn, the appeal to this Court is from the 2024 Decision declining jurisdiction only. The Tribunal applied the legal principles in the *Walsh* decision to the facts without legal error, concluding that there was no jurisdiction.

[17] As noted by the respondent, the appellants may still re-apply for income support on new or other evidence or if material circumstances have changed: s. 10(2) of the Act.

[18] This appeal is therefore dismissed. There shall be no order as to costs.

D.L. Corbett J.

Matheson J.

Mew J.

Date: June 2, 2026