

IN THE COURT OF APPEAL OF MANITOBA

BETWEEN:

	)	H. Gullu
	)	<i>for their own behalf</i>
HULYA GULLU)	
	)	D. Fenske
(Appellant) Applicant	)	<i>for the Respondent</i>
)	
- and -	)	K. Faingold
	)	<i>on a watching brief</i>
	)	<i>for the Social Services</i>
	)	<i>Appeal Board</i>
DIRECTOR, ACCESS RIVER EAST)	
	)	<i>Chambers motion heard:</i>
(Respondent) Respondent	)	October 16, 2025
)	
	)	<i>Decision pronounced:</i>
	)	November 17, 2025

MONNIN JA

[1] The applicant and her husband (Mr. Gullu) (together, the Gullus) were refugees to Canada and received benefits under *The Manitoba Assistance Act*, CCSM c A150 [the *Act*]. The applicant seeks leave to appeal a decision of the Social Services Appeal Board (the board) signed on August 19, 2025, upholding a decision of the respondent (the director), to assess an overpayment of over \$15,000 against the Gullus for funds received through the sale of assets in their country of origin, Turkey.

Factual Background

[2] When the Gullus arrived in Manitoba as refugees in October 2018, they applied for employment and income assistance (EIA) under the *Act*. During the original intake interview, they disclosed that they owned property and a vehicle in Turkey. They were told that these assets did not need to be reported unless funds from them were brought to Canada.

[3] The Gullus sold their property on May 8, 2019, for just over 210,000 Turkish lira, of which they received only 110,000 Turkish lira (about C\$21,000). The money they received from the sale was used to pay debts that they owed in Turkey.

[4] As to the vehicle, it was sold between December 2018 and January 2019 for slightly over \$6,000 and the money was used to cover credit card debts and loans. Documentation with respect to the sale of the vehicle was not available.

[5] In May 2020, the EIA department (the department) wrote the Gullus requesting updated information on the sale of the assets discussed above. In an email, the Gullus provided the information that I have recounted above and advised that the funds were never brought into Canada. It was their position then, as it is now, that as the funds were never brought into the country, they did not need to be reported, and they took no further steps to gather documents from the transactions.

[6] Bank statements showed a large e-transfer to the Gullus in February 2020, which was a donation from a church group of friends so the family could

purchase a vehicle. An amount of \$3,400 was considered by the director as a gift to them.

[7] After receipt of the information from the Gullus, the director concluded that the amounts received from the sale of the assets in Turkey and the donation from the church group were assets available to the Gullus, and therefore, they had received overpayments under the program. In a letter dated August 31, 2020, he advised the Gullus that the department was seeking a repayment of a sum of \$15,513.87. The amount was calculated as follows:

(1) property sold in Turkey	\$21,778.35
(2) vehicle sold in Turkey	\$6,335.52
(3) donation from church group (\$3,700 less \$100 per person as gift exemption)	\$3,400.00
(4) less liquid asset exemption for a family of four	\$16,000.00

[8] On September 3, 2020, Mr. Gullu responded to the letter advising that he would be appealing the decision. In March 2021, Mr. Gullu met with an EIA counsellor to discuss the alleged overpayment calculation and explanations for it.

[9] An appeal was filed on June 9, 2025, outside of the three months stipulated in the board policy for timely appeals. The board found extenuating circumstances and allowed the appeal to proceed.

[10] Before the board, the Gullus argued that they had acted in good faith and followed the guidance given at intake. As well, they pointed out that paying the debts was essential, as failure to do so could have serious consequences if the family ever returned to Turkey, which they planned to do.

[11] Acknowledging possible misunderstandings and communication differences about how legislation, regulations and policies would be interpreted, the board nevertheless accepted the department's position "that EIA rules require sale proceeds from liquid assets be reported and used for living expenses prior to paying off debts as [the EIA] is a program of last resort." It concluded that the department had correctly assessed the overpayment of \$15,513.87.

[12] It should be noted that the board was under the impression that this amount did not include the money received by the Gullus from their friends at church to help them purchase a vehicle, an amount that the department had advised the board was not included in the overpayment calculation. I will return to this later.

Leave to Appeal

[13] Section 23(1) of *The Social Services Appeal Board Act*, CCSM c S167, provides for an appeal to this Court on any question involving the board's jurisdiction or on a point of law after obtaining leave from a judge of this Court.

[14] As this Court has said numerous times in explaining the principles applicable to an application for leave, leave requires:

- (a) that the question must be truly one only of jurisdiction or of law and not one that involves the Court in an assessment of factual issues;
- (b) it must be a case that warrants the attention of the Court; namely, it must be of importance, not just for the immediate case, but also in determining similar disputes that may arise in the future; and
- (c) there must be an arguable case of substance; namely, one with a reasonable chance of success.

See *Klippenstein v Director, Point Douglas*, 2011 MBCA 15 at para 2.

[15] As well, the Court may also consider whether denial of leave could result in an injustice (see *Thomas v Director, Employment and Income Assistance Programs*, 2013 MBCA 16 at paras 12-13).

Grounds of Appeal

[16] The applicant, in her written material, advances six grounds upon which she challenges the decision of the board. Three relate to errors of law and three to allegations of procedural unfairness.

[17] The errors of law are alleged to be a failure to apply the governing law and policy in relation to the calculation of financial resources and the availability of assets to support the family. The only specific error of law articulated by the applicant is a breach of section 15.2.9 of the EIA Administrative Manual (see Manitoba, Department of Families, “EIA Administrative Manual” (last visited 10 November 2025), online:

<gov.mb.ca/fs/eia_manual/15.html>), which, according to the applicant, exempts lump sum replacements for lost assets when they are not available for current maintenance. The allegation is that the proceeds from the applicant's property and vehicle sales in Turkey were never received by the Gullus. Instead, they were deposited directly into a Turkish bank, where they were seized by the bank to cover existing debts. As such, the proceeds were never accessible to the household in Canada.

[18] The difficulty with that argument is that the director and the board relied upon the information contained in the June 30, 2020 email from Mr. Gullu (the email), where he indicated the funds were used for purposes of paying outstanding debts and loans. There is no suggestion of forced seizure or coercion by the bank or government authorities or unavailability to be transferred. Accordingly, the question of whether the funds were in fact used for paying debts and loans is a factual issue and not one of interpretation.

[19] The remaining error of law relates to an allegation of improper treatment given to the \$3,400 gift from the church group for a vehicle. I will deal with that matter later on in these reasons.

[20] The next three grounds of appeal are allegations of breaches of procedural fairness. The first is that the board mischaracterized the applicant's case, suggesting that she is relying upon a criminal assault against her as a reason to cancel her overpayment. The applicant argues this was never raised as a reason by her, and therefore, the director erred by using this as part of his reasoning, as did the board.

[21] While the board did note that the department raised a five-year delay to the appeal as a reason to deny it and that the overpayment predated the

alleged assault by two years, it did not refer to the delay as part of its reasoning to deny the appeal. In fact, it accepted the events surrounding the assault in deciding to allow the appeal to proceed notwithstanding the lengthy delay that occurred between the decision and the request to appeal. Therefore, I fail to see that the applicant has an arguable case on that allegation of procedural unfairness.

[22] The second ground of alleged procedural unfairness is an alleged failure to consider the fact that the applicant received information as to the use of resources abroad and relied upon that information in good faith.

[23] In its reasons, the board acknowledged possible misunderstandings but concluded that the rules provided that proceeds from liquid assets needed to be reported and used for living expenses. The advice allegedly given to the applicant was before the board when it reached its conclusions. It is at best an issue of mixed fact and law and not a breach of procedural fairness, which would warrant intervention by this Court.

[24] The final procedural breach alleged is the failure of the board to consider the issue in a refugee context and the vulnerability of the Gullus when the department required documentary proof from banks in Turkey to show that accessing those funds would be creating a risk for the applicant. It should be noted that this argument was not initially raised by the Gullus back when they were asked for information by the department. There is no direct evidence presented by the applicant that such a risk existed.

[25] It was open to both the department and the board to find that, given the information provided in the email, there was not an impediment to obtaining the necessary information as to the actual use of the funds.

[26] As to the final issue—the receipt of a gift from the church group—at the hearing, it appeared that contrary to what had been asserted by the board in its reasons, the department had in fact included \$3,400 of the gift from the church in the amount to be repaid. At my request, counsel for the department confirmed that this was the case and that the department was not pursuing repayment of that portion of the amount paid to the Gullus. The amount of the requested overpayment was reduced to \$12,113.87. Therefore, while the board’s reasons were based upon incorrect information provided by the department, which has since been rectified, that does not form a basis for an appeal to this Court either on the grounds of an error of law or of an injustice.

[27] I have set out why I am of the view that none of the grounds raised by the applicant set out an arguable error of law or of jurisdiction with a reasonable prospect of success sufficient to ground an appeal to this Court. As well, I am of the view that none of these proposed grounds of appeal raise issues that warrant the attention of this Court given that they are fact-specific and particular to the issue between the parties before the board.

[28] For these reasons, I would deny leave to appeal. There will be no costs.

JA