



2022 – 2023

Annual Report

*Family Income Security
Appeal Board*

May 9, 2023

Honorable K. Dorothy Shephard
Minister of Social Development
Province of New Brunswick

Dear Minister:

On behalf of the Family Income Security Appeal Board, we have the honour of submitting the Annual Report for the fiscal year of April 1, 2022, to March 31, 2023.

Sincerely yours,



Gail Bremner
Chairperson



Jason Godin
Vice-Chairperson

c.c.: Members of the Board

TABLE OF CONTENTS

| | Page |
|---|-------------|
| 1. Message from the Chairperson | 1 |
| 2. Background of the Board..... | 2 |
| 3. Members of the Board..... | 3 |
| 4. Jurisdiction | 4 |
| 5. Relationship with Government | 5 |
| 6. Hearing Locations | 6 |
| 7. Statistical Review of Decisions and Tables | 6 |
| (a) Appeals by Month | 7 |
| (b) Appeals by Reason | 8 |
| (c) Appeals by Zone | 9 |
| (d) Appeals - Northern Zone | 10 |
| (e) Appeals - Central Zone | 11 |
| (f) Appeals - Southeast Zone..... | 12 |
| (g) Appeals - Southwest Zones | 13 |
| (h) Appeals by Outcome..... | 14 |
| (i) Appeals by Marital Status..... | 15 |
| (j) Appeals by Gender | 17 |
| (k) Appeals by Age Group | 17 |
| (l) Appeals by Language | 18 |
| 8. Appeal Board Budget and Expenditures | 19 |
| 9. The Ombud’s Office | 20 |
| 10. Added Responsibilities | 20 |

MESSAGE FROM THE CHAIRPERSON

For the year ending March 31, 2023, the Family Income Security Appeal Board fulfilled its mandate by providing fair and unbiased hearings at the appellants' request.

The members of this Board are tasked with making very difficult decisions and I thank each member for their dedication and commitment to this process.

This is a responsibility our Board takes very seriously, and it does its utmost to make objective decisions based on the evidence presented at the hearing and the *Family Income Security Act* and the *New Brunswick Regulation 95-61*.

Inherent in the Board's mandate, is a demand of a high level of appreciation of the Principles of Administrative Law and the Rules of Natural Justice.

Everyone who attends our hearings is treated with dignity and respect.

With the departure of my predecessor, the Board operated mainly with a Vice-president, Jason Godin, from July 31, 2022, until February 22, 2023.

This Annual Report is a summary of our work in the 2022-2023 fiscal year and a brief background of this Board's historical development.

BACKGROUND OF THE BOARD

Provincial Appeal Boards were established as a result of a Canada wide review of Social Policy culminating under the enactment of a federal legislation, known as the Canada Assistance Program (CAP). New Brunswick's initiative resulted in the Social Welfare Appeals Board which was established in 1970 under the *Social Welfare Act* and Regulations to permit applicants and clients to seek an independent review of a Departmental decision. It is a quasi-judicial, independent tribunal, based on Administrative Law of Natural Justice.

Subsequently, the *Family Income Security Act* and *Regulation 95-61* were proclaimed. Effective April 1, 1996, "The Social Welfare Appeals Board is terminated" as set out in Section 30(1) of *Regulation 95-61*. Section 30(2) "...responsibilities and liabilities of the Social Welfare Appeals Board are, transferred to and vested in ...the Regional Family Income Security Appeal Boards created under the General Regulation - *Family Income Security Act*..."

Effective April 1, 2002, the Regional Family Income Security Appeal Boards are terminated further to section 14(2) of *Regulation 95-61*. A new board was established under subsection 24(1) of *Regulation 95-61* which is now called the Family Income Security Appeal Board.

Regulation 95-61 requires that the Family Income Security Appeal Board be composed of a Chairperson, one or two Vice-Chairpersons, and at least 14 members who shall be appointed by the Lieutenant-Governor in Council.

Each member of the Board, including the Chairperson and Vice-Chairpersons, are appointed for a term of not more than three years and may be reappointed for subsequent terms of not more than three years.

MEMBERS OF THE BOARD

Gail Bremner, Chairperson
Jason Godin, Vice-Chairperson

Saint John
Caraquet

Melanie Burns, Member
Mark Fisher, Member
James Proudfoot, Member
Jami Moore, Member
Chris Maxwell, Member
Roger Sénéchal, Member
Terry Ogilvie, Member
Wilma Gilchrist, Member
Sherry MacEachern, Member
Wallace Floyd, Member
Yanik Hachey, Member
Dean Johnston, Member
Amy Shanks, Member
Guylaine Savoie, Member
Mathieu Lemieux, Member
Margaret Gregg, Member

Saint John
Saint John
Moncton
Fredericton
Sackville
Beresford
Salisbury
Fredericton
Moncton
Hampton
Val d'Amour
Riverview
Saint John
Alcida
Saint-Jacques
Fredericton

JURISDICTION

The Appeal Board hearing is the final step in a three-tiered appeal process. The first two steps are internal administrative reviews. The third and final step is an appeal to an external review body, the Family Income Security Appeal Board. The Board is required, by its quasi-judicial nature, to conduct hearings in a court-like manner, although less formally, while still applying the rules of Natural Justice. The Board must provide a fair and unbiased assessment of the facts presented during a hearing as a basis for its decision.

The focal point of the Board's mandate is to ascertain the truth of the matter before them. To ensure that the Board has the power and authority necessary to accomplish its mandate, the Government of New Brunswick has provided the Board "... all the powers conferred on a Commissioner or Commissioners appointed under the *Inquiries Act* and all provisions of that Act, when applicable to and not inconsistent with the provisions of this Regulation, shall apply to an appeal." (Section 28(5) of *Regulation 95-61* under the *Family Income Security Act*.)

Decisions of the Board are final and conclusive, as set out in Section 29(1), of *Regulation 95-61* and the *Family Income Security Act*. However, parties to the hearing who believe that the Appeal Board has erred in law, may appeal to the Court of Queen's Bench for a judicial review of the decision. The decision will be set aside if the Court finds that the Board violated the rules or did not follow the principles of Natural Justice.

The Appeal Board hears cases at the request of appellants relating to matters under the *Family Income Security Act* and *Regulation 95-61*. The Board is bound by the *Act* and *Regulation 95-61*.

Appellants are advised at the beginning of a hearing that the Board does not make regulations and cannot change them. However, the Board can submit recommendations to the Minister. The Board will provide an open and unbiased review of the circumstance surrounding the decision made by the Department. The Board is not a legislative entity.

The Board may also investigate and report back to the Minister on any matter under the *Act* or *Regulation 95-61* that may be referred to them by the Minister.

RELATIONSHIP WITH GOVERNMENT

When the Government of Canada first established tribunals and boards on a large scale at the beginning of this century, it did not detail their procedures. It fell to the Courts to determine whether these bodies were to conform to normal judicial methods. As a result, tribunal's procedures developed gradually over time, based on the principles of Administrative Law.

In 1970, the Social Welfare Appeal Board was established as a quasi-judicial tribunal, subject to the Rules of Natural Justice. The two principles most commonly called the "Rules of Natural Justice" were outlined by Lord Haldane:

- (1) They must deal with the question referred to them without bias; and
- (2) They must give to each of the parties the opportunity of adequately present their case.

To ensure the freedom from bias required by these Rules of Natural Justice, the Appeal Board maintains an "arms-length" relationship with the Government. Appointments to the Board are made by the Lieutenant-Governor in Council.

Section 24(3) of *Regulation 95-61* further supports the objective of independence by prohibiting any person from serving on the Board who was employed in the Civil Service of the Province within the last six months prior to their appointment.

The Legislature also wishes to guard against Departmental interference in the actions of the Appeal Board. Thus, "The decision of the majority of the members of the Board who hear an appeal shall be the decision of the Board and shall be final and conclusive." (Section 29(1) of *Regulation 95-61* under the *Family Income Security Act*), but "... an appeal shall be decided on its own merits and in accordance with the Act and this Regulation..." (Section 28(9) of *Regulation 95-61* under the *Family Income Security Act*). This means that while the Board is independent of the Department, both the Department and the Appeal Board are bound by the provisions of the *Family Income Security Act* and Regulations.

HEARING LOCATIONS

Hearings are held on neutral ground in the community where the appellant is served by the Department of Social Development. The Board rents a meeting space that is accessible for individuals living with mobility limitations in the appellant's community from colleges, municipal buildings, community centers or, as a last resort, hotels.

Hearings are held in the following communities:

Northern Zone: Edmundston / Grand-Falls / Campbellton / Kedgwick / Bathurst / Caraquet / Shippagan / Tracadie-Sheila

Central Zone: Fredericton / Woodstock / Perth-Andover / Miramichi / Néguaç

Southeast Zone: Richibucto / Sackville / Shediac / Moncton

Southwest Zone: Saint John / Sussex / St. Stephen

STATISTICAL REVIEW OF DECISIONS

There were 17 notices of appeal received in 2022 -2023. During the past nine years the numbers of appeals were as follows:

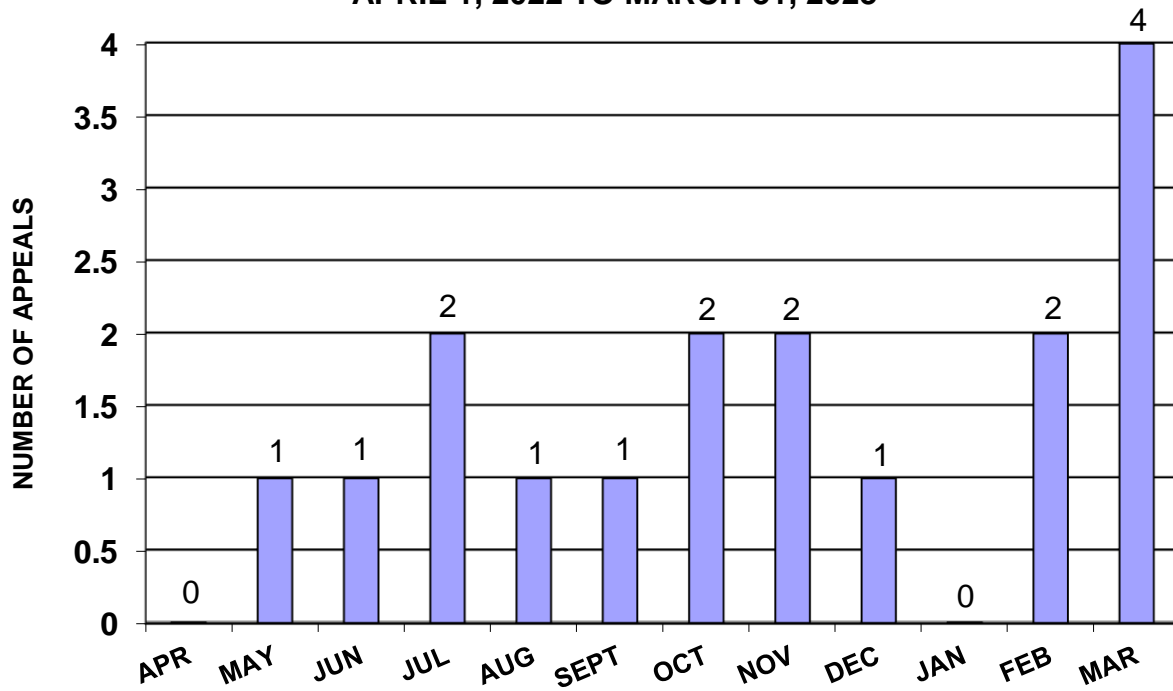
| | | |
|----------------|----------------|-----------------|
| 2022-2023 - 17 | 2019-2020 – 80 | 2016-2017 – 134 |
| 2021-2022 – 23 | 2018-2019 – 74 | 2015-2016 – 138 |
| 2020-2021 – 26 | 2017-2018 – 91 | 2014-2015 – 126 |

Out of the 17 notices of appeal received in the fiscal year 2022 - 2023, 6 were allowed, 9 were dismissed (which includes 1 cancelled and 1 no show). The ratio of males to females were 8 (47%) to 9 (53%) respectively. The majority of appeals were in the Northern and Southeast Zones. Of the 17 appeal hearings, 10 (59%) were conducted in English and 7 (41%) were in French.

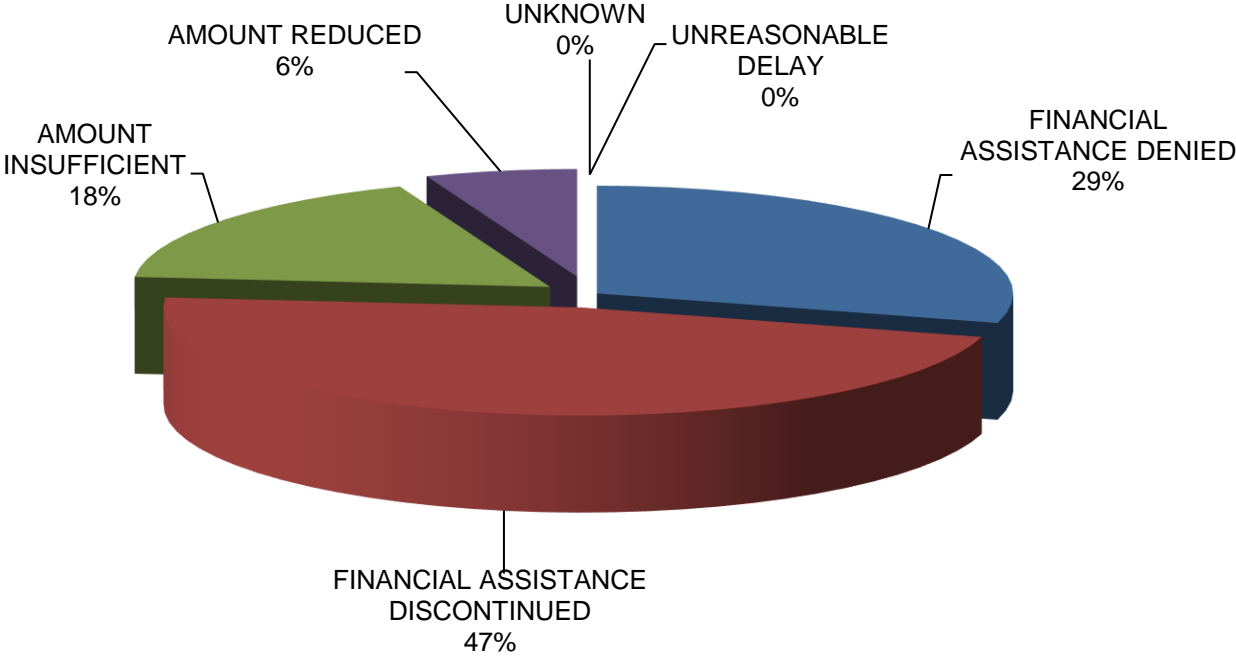
STATISTICAL TABLES

The statistical tables on the following pages relate to the fiscal year of April 1, 2022, to March 31, 2023.

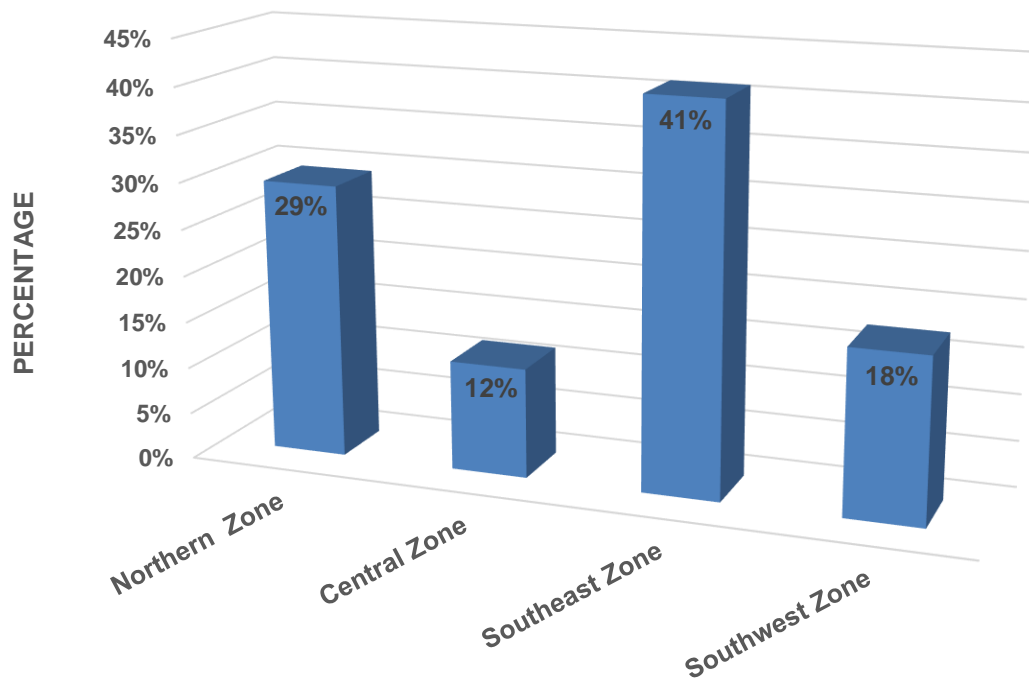
APPEALS BY MONTH APRIL 1, 2022 TO MARCH 31, 2023



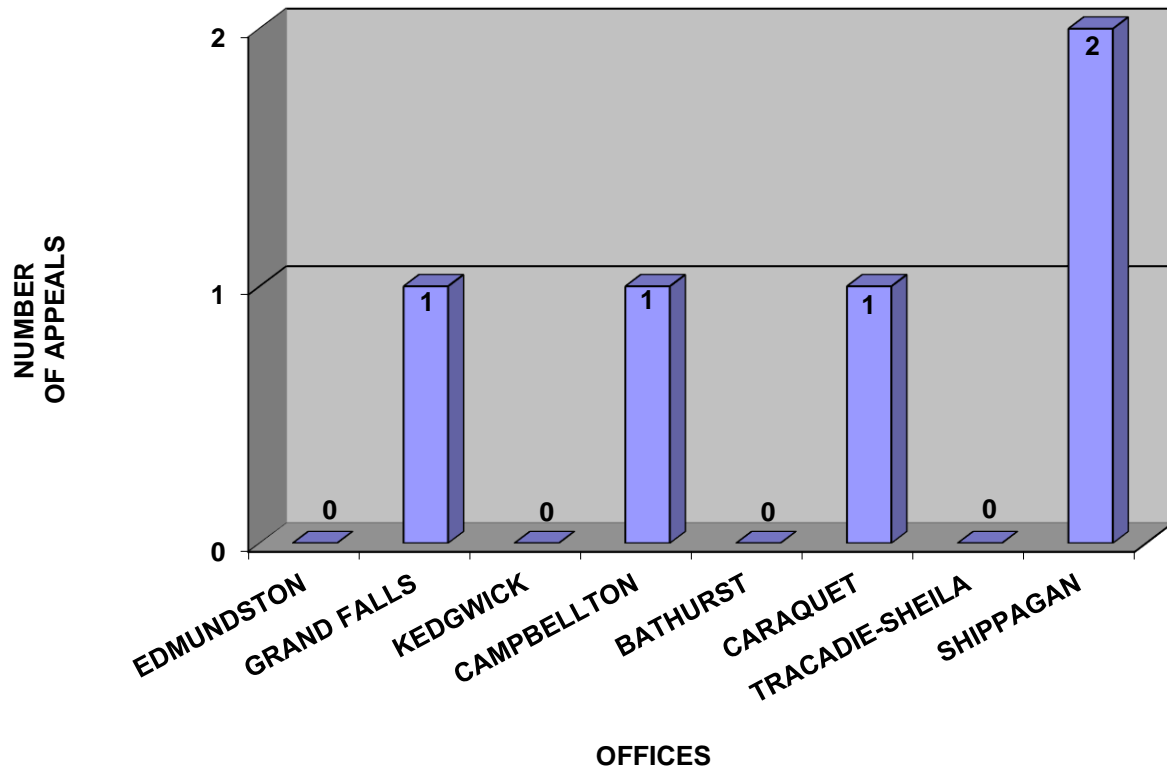
APPEALS BY REASON
APRIL 1, 2022 TO MARCH 31, 2023



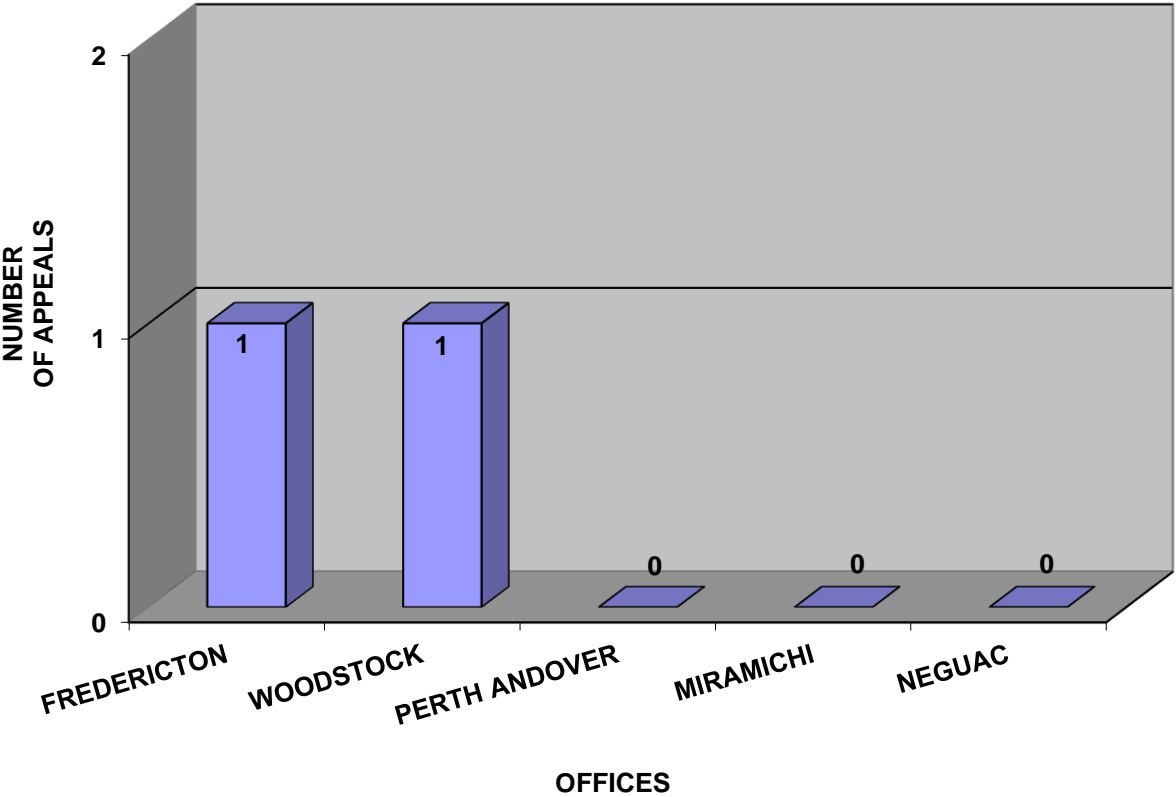
APPEALS BY ZONE
APRIL 1, 2022 TO MARCH 31, 2023



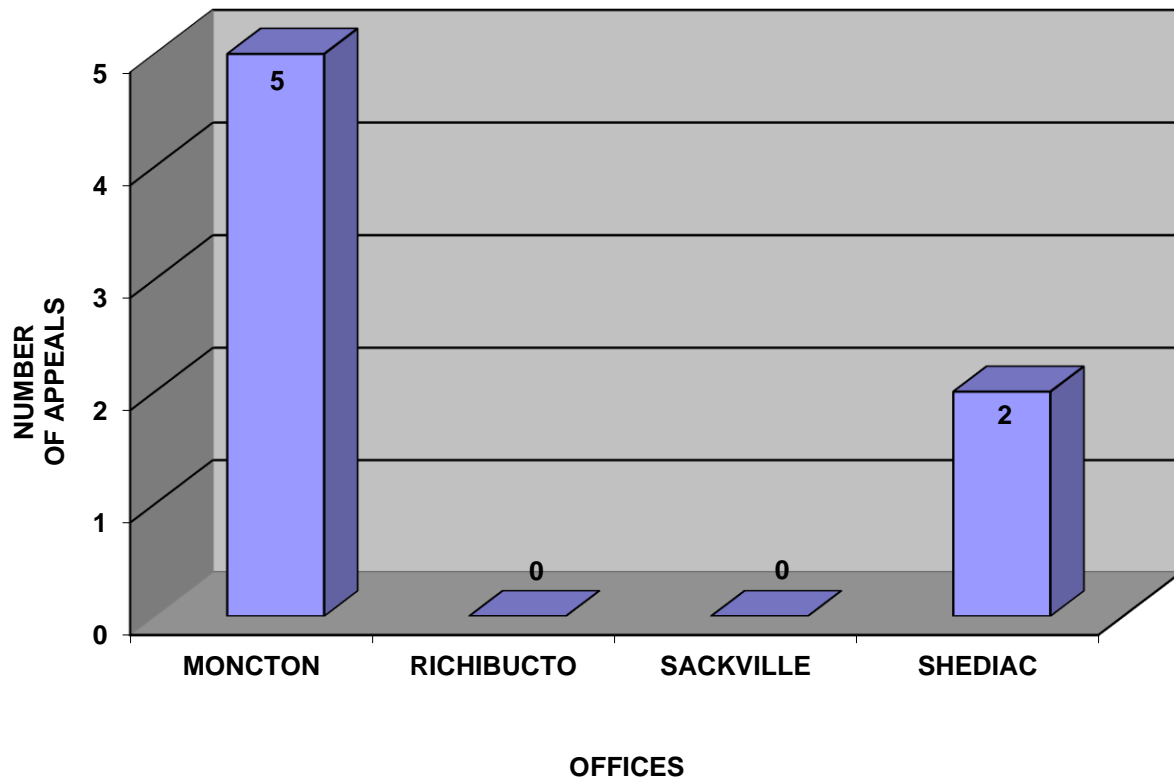
APPEALS - NORTHERN ZONE APRIL 1, 2022 TO MARCH 31, 2023



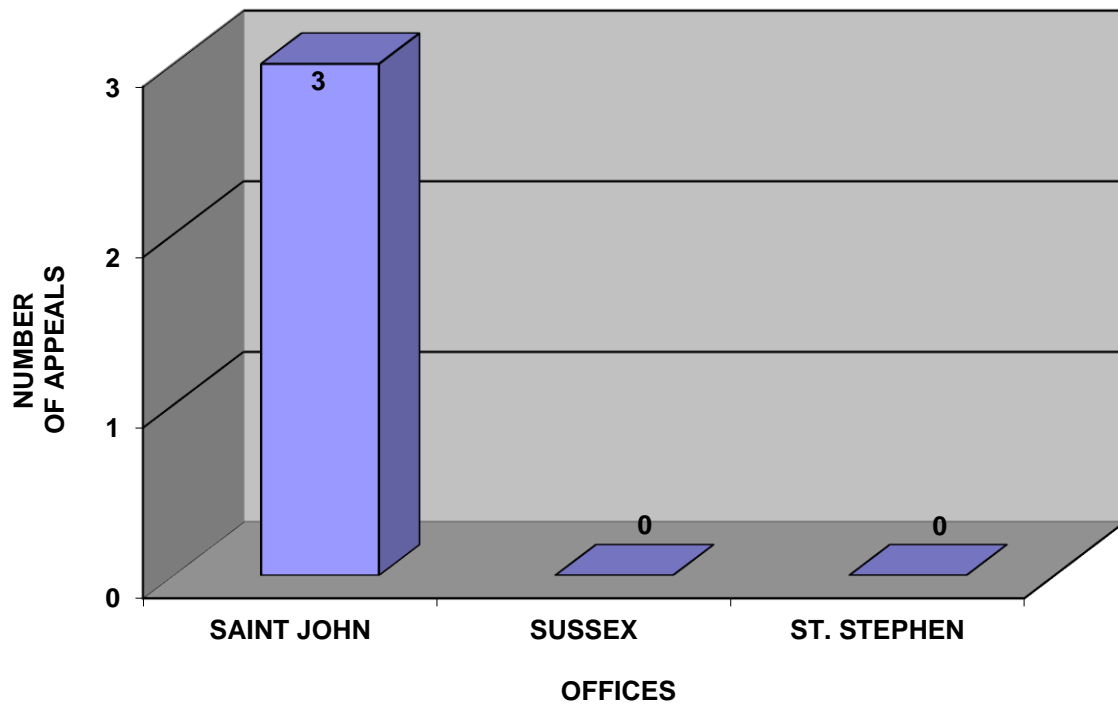
APPEALS - CENTRAL ZONE
APRIL 1, 2022 TO MARCH 31, 2023



APPEALS - SOUTHEAST ZONE APRIL 1, 2022 TO MARCH 31, 2023

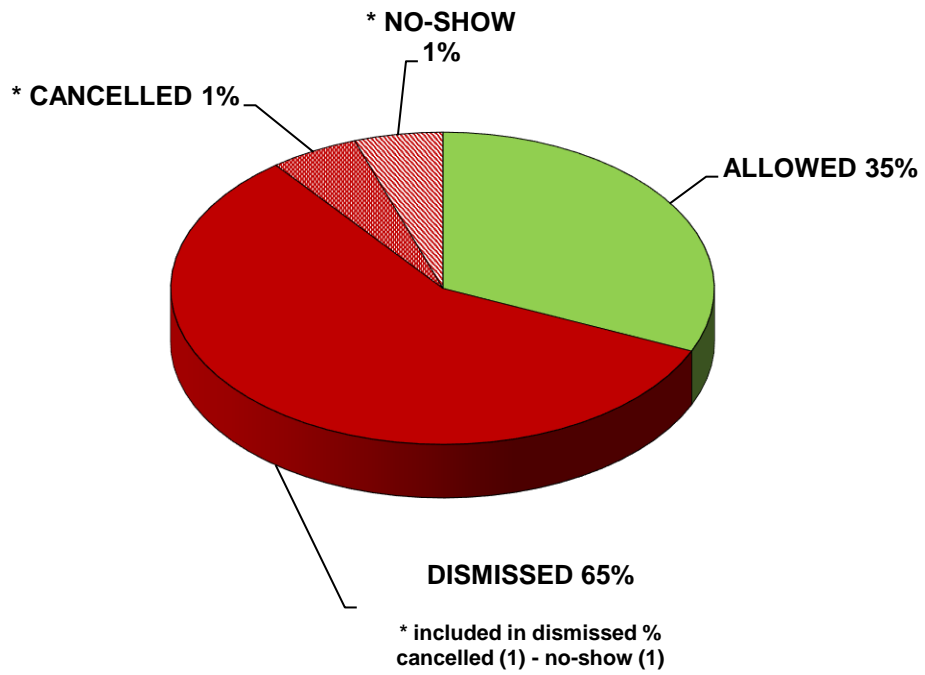


APPEALS - SOUTHWEST ZONE APRIL 1, 2022 TO MARCH 31, 2023



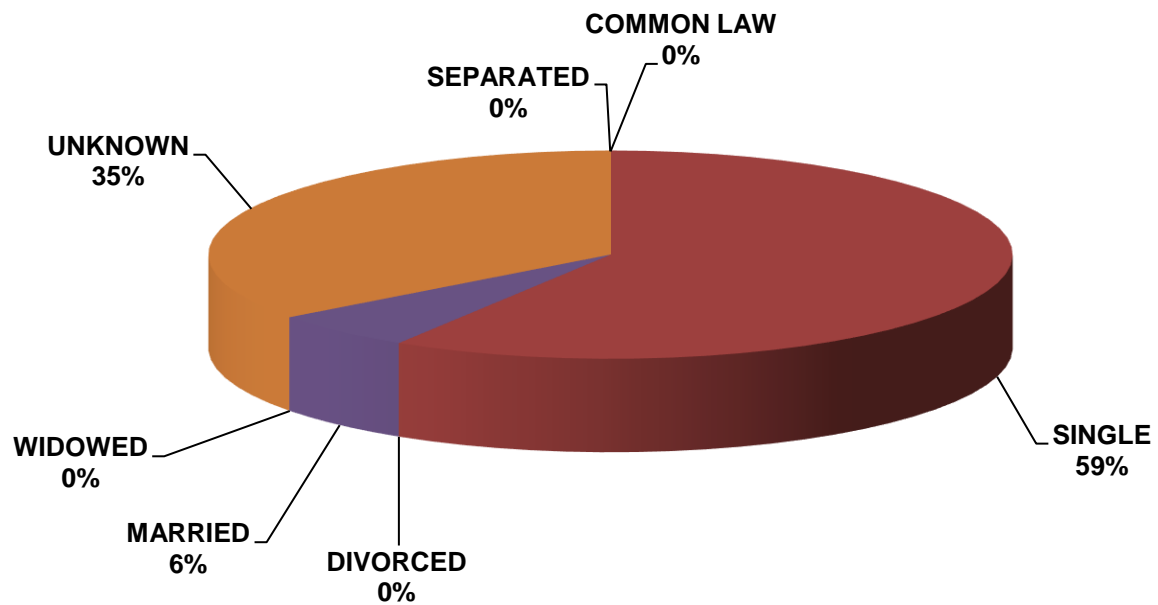
APPEALS BY OUTCOME

APRIL 1, 2022 TO MARCH 31, 20223

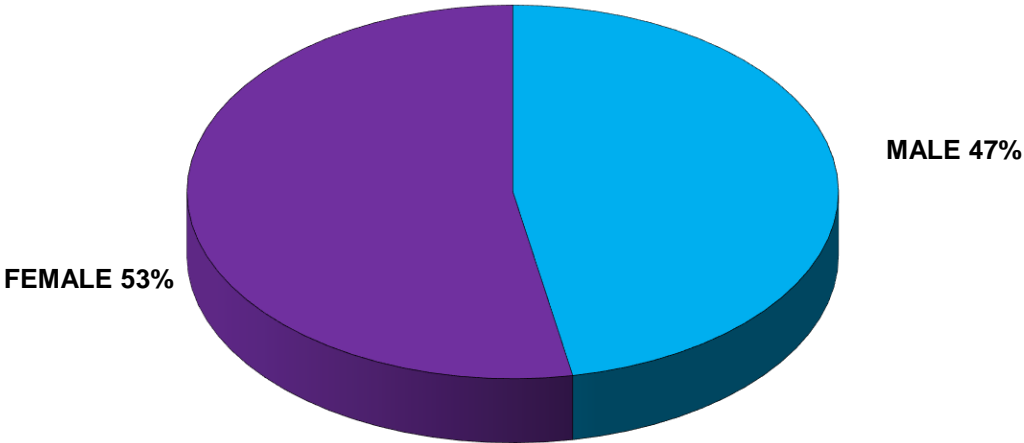


APPEALS BY MARITAL STATUS

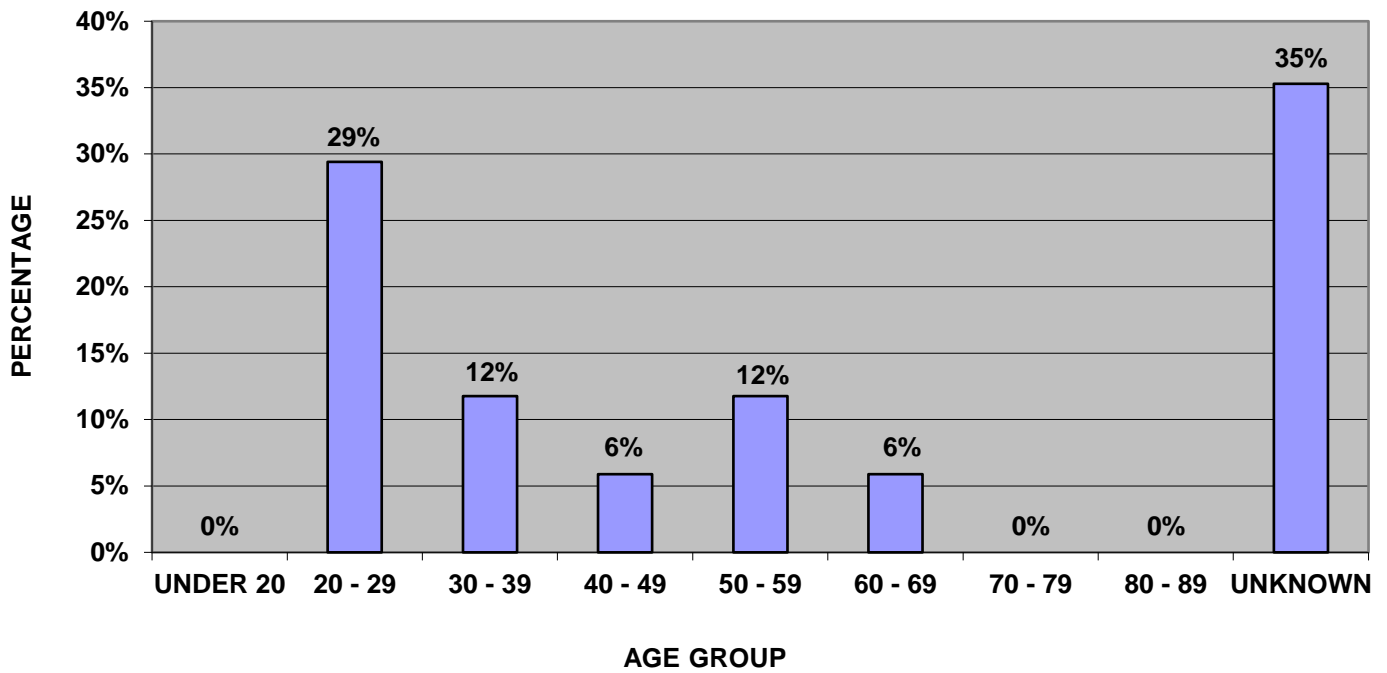
APRIL 1, 2022 TO MARCH 31, 2023



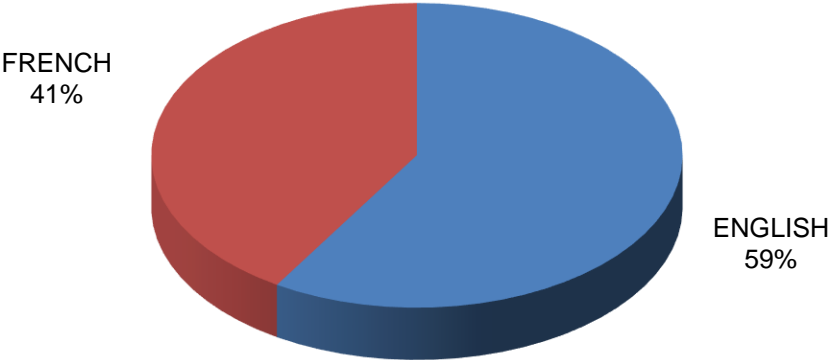
APPEALS BY GENDER
APRIL 1, 2022 TO MARCH 31, 2023



APPEALS BY AGE GROUP APRIL 1, 2022 TO MARCH 31, 2023



APPEALS BY LANGUAGE
APRIL 1, 2022 TO MARCH 31, 2023



APPEAL BOARD BUDGET AND EXPENDITURES
APRIL 1, 2022 TO MARCH 31, 2023

| Budget and Expenditures | | |
|----------------------------------|--------------------|--------------------|
| Category | Budget | Expenditures |
| Salaries | \$75,000.00 | \$83,643.29 |
| Other - Hearing Location Rentals | \$3,000.00 | \$2,106.09 |
| Travel / Accommodations | \$20,092.00 | \$8,359.65 |
| Postage / Supplies | - | \$914.78 |
| Total | \$98,092.00 | \$95,023.81 |

THE OMBUD'S OFFICE

All decisions of the Family Income Security Appeal Board are final and conclusive. However, persons dissatisfied with a decision of the Board may take their complaints to the Ombud. The Ombud cannot change the decision of the Board. Nevertheless, the Ombud can review the circumstances to determine whether or not the complaint can be substantiated. The Ombud may also make recommendations to the Board, directly to the Minister of Social Development, or deal with the situation in their Annual Report.

ADDED RESPONSIBILITIES

The *Act* and *Regulation 95-61* require the Chairperson to convene a hearing within 20 days of receipt of a Notice of Appeal. The appellant and all parties to the appeal are notified in writing of the date, time, and place of the hearing at least 5 days prior to the hearing.

Hearings are held in the language of the appellant's choice in a neutral location. Appeal locations are chosen specifically with the appellant in mind. Appellants speaking a third language, and having difficulty in English and French, may bring their own interpreter for other languages.

Although hearings are conducted in an informal manner, the Board's procedures must rigidly conform to the Principles of Administrative Law and the Rules of Natural Justice.

Each appellant is entitled to be accompanied by one person of their choice and to call witnesses. They may choose to be represented by legal counsel or they may delegate another individual to act on their behalf. The Department of Social Development is represented at the hearing by the designated officer to present evidence and to call witnesses as necessary.

An appeal is always heard by either the Chairperson, or a Vice-Chairperson who acts as Chairperson, and two Board members. The decision of the Appeal Board is final and conclusive as per Section 29(1) of *Regulation 95-61, Family Income Security Act*.

The Board hearing the case reviews the evidence and makes its decision immediately following the hearing. The hearing documents are then written by the Chairperson or a Vice-Chairperson and signed by all three members. The formal decision is written and forwarded to the Appeal Board office. All decisions are processed and reviewed prior to signature by the Chairperson or a Vice-Chairperson. Each decision must be rendered within 15 days of the scheduled hearing.