

APPEAL

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision of January 9, 2012 determining that the appellant is not eligible for a moving supplement because he did not meet the criteria of Section 55 of the Employment and Assistance for Persons with Disabilities Regulation, in that the appellant did not have confirmed employment, did not indicate he moved to avoid imminent danger to his safety, he had not moved to another province or country, his previous accommodation had not been sold, demolished or condemned and he did not move to an adjacent municipality.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 55.

PART E – Summary of Facts

The appellant did not attend the teleconference hearing. The panel confirmed that the appellant was notified of the hearing and proceeded under the Employment and Assistance Regulation, Section 86 (b).

The evidence before the ministry at reconsideration includes

- The ministry's evidence in its Reconsideration Decision, indicating that the appellant and his spouse have been on income assistance since July, 2009. His spouse has Persons with Disabilities status.
- A Ministry of Social Development Shelter Information form filled out by the appellant with a copy of a rent receipt signed February 25, 2011 by the appellant indicating that the appellant was "renting or intending to rent" a residence in [BC city "A"] starting February 23, 2011, for two persons at \$750.00 per month, meals and utilities included.
- A Ministry of Social Development Shelter Information form filled out by the appellant with a copy of a rental receipt signed "2011 Apr" by the appellant indicating that he was "renting or intending to rent" a residence in [BC district municipality, "B"] starting April 13, 2011 for 4 adults and 2 children, the "client's portion of the rental amount" being \$570.00 per month, utilities included.
- A Ministry of Social Development Shelter Information form filled out by the appellant with a copy of a rental receipt signed October 1, 2011 indicating that he was "renting or intending to rent" a residence in [BC city, "A"] starting October 1, 2011 for 4 adults and 1 child, the "client's portion of the rental amount" being \$400.00 per month, with utilities an extra \$150.00 a month.
- A Ministry of Social Development Shelter Information form filled out by the appellant indicating that he was "renting or intending to rent" a residence in [BC district municipality, "B"] starting November 1, 2011 for 3 adults, the "client's portion of the rental amount" being \$550.00 per month, utilities included.
- An e-mail from the appellant to the ministry dated January 6, 2012 submitted with his Request for Reconsideration. The appellant asks for additional funds of approximately \$900.00 to complete his move from [BC town, "C"] to [BC district municipality, "B"]. He writes further:

" On December 9th 2010 we left our [BC town, "C] home to attend a specialist appointment for [his spouse] in [BC city, "D")] . . . Our intention was to attend [the appointment with the specialist] and an appointment for both of us with our G.P ... also in [BC city , "D"] and then to return to [BC town "C"]. After [his spouse's] appointment the specialist set up some tests for her. [She] was hospitalized in December, 2010 and we found out that [she] had an additional health issue.... Meanwhile we were waiting for [her] tests date and I was waiting for another Dr. appointment. We decided to stay locally rather than incurring the costs of another round trip to [BC town, "C"]. [His spouse] missed an appointment with [her specialist] because we could not afford the gas to get there. [She] was hospitalized in [BC city, "D"] again in December, 2010. When she was released from hospital we decided to move back to [BC region, "E"] mainly for health reasons as [BC town, "C] we felt, was too remote. We wanted to be closer to our doctors, friends and family. We started our search for accommodation. We were hopeful to find some place to live ... as well as an additional storage for some personal household belongings and tools...."

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision to deny the appellant's request for a moving supplement was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence, given that the ministry determined that the appellant is not eligible for a moving supplement because he did not meet the criteria of EAPWDR, Section 55, in that the appellant did not have confirmed employment, did not indicate he moved to avoid imminent danger to his safety, he had not moved to another province or country, his previous accommodation had not been sold, demolished or condemned and he did not move to an adjacent municipality.

Employment and Assistance for Persons with Disabilities Regulation

Supplements for moving, transportation and living costs

55 (1) In this section:

"living cost" means the cost of accommodation and meals;

"moving cost" means the cost of moving a family unit and its personal effects from one place to another;

"transportation cost" means the cost of travelling from one place to another.

(2) Subject to subsections (3) and (4), the minister may provide a supplement to or for a family unit that is eligible for disability assistance or hardship assistance to assist with one or more of the following:

(a) moving costs required to move anywhere in Canada, if a recipient in the family unit is not working but has arranged confirmed employment that would significantly promote the financial independence of the family unit and the recipient is required to move to begin that employment;

(b) moving costs required to move to another province or country, if the family unit is required to move to improve its living circumstances;

(c) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area because the family unit's rented residential accommodation is being sold or demolished and a notice to vacate has been given, or has been condemned;

(d) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area if the family unit's shelter costs would be significantly reduced as a result of the move;

(e) moving costs required to move to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit;

(f) transportation costs and living costs required to attend a hearing relating to a child protection proceeding under the *Child, Family and Community Service Act*, if a recipient is given notice of the

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hearing and is a party to the proceeding;

(g) transportation costs, living costs, child care costs and fees resulting from

- (i) the required attendance of a recipient in the family unit at a hearing, or
- (ii) other requirements a recipient in the family unit must fulfil

in connection with the exercise of a maintenance right assigned to the minister under section 17
[categories that must assign maintenance rights].

(3) A family unit is eligible for a supplement under this section only if

- (a) there are no resources available to the family unit to cover the costs for which the supplement may be provided, and
- (b) a recipient in the family unit receives the minister's approval before incurring those costs.

(4) A supplement may be provided under this section only to assist with

- (a) the cost of the least expensive appropriate mode of moving or transportation, and
- (b) in the case of a supplement under subsection (2) (f) or (g), the least expensive appropriate living costs.

[am. B.C. Reg. 275/2004, s. 2.]

With respect to EAPWDR S. 55 (2) (a) the ministry's position is that the appellant did not indicate that he moved as a result of arranging confirmed employment in [BC district municipality, "B"] that would significantly promote the financial independence of the family unit and was required to move to begin that employment. The panel finds that the evidence of the appellant, as given in e-mail to the ministry of January 6, 2012 providing his reasons for moving does not offer confirmed employment as one of his reasons, and there is no other evidence from the appellant that he moved to take a new job in [BC district municipality, "B"]. Therefore the panel finds that with respect to EAPWDR S. 55 (2) (a) the ministry's decision was reasonably supported by the evidence.

With respect to EAPWDR S. 55 (2) (b), the ministry's position is that the moving expenses incurred by the appellant were not for a move to another province or country. At the hearing, in response to a question from the panel the ministry representative noted that in part the appellant's position in his e-mail of January 6, 2012 was that his move was required to improve his living circumstances but the ministry representative also noted that the provision of EAPWDR S. 55 (2) (b) applies only to a move to another province or country, not to a move within a province. As the evidence shows that the move was within the province, the panel finds that with respect to EAPWDR S. 55 (2) (b) the ministry's decision was reasonably supported by the evidence.

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With respect to EAPWDR S. 55 (2) (c), the ministry's position is that the appellant did not move within a municipality or unincorporated area to an adjacent municipality or unincorporated area and that furthermore the appellant did not move because the family unit's rented residential accommodation was being sold or demolished and a notice to vacate had been given, or the residence had been condemned. The panel finds that the evidence indicates that the appellant moved but not within a municipality or unincorporated area to an adjacent municipality or unincorporated area and that there is no evidence that appellant moved because the family unit's rented residential accommodation was being sold or demolished and a notice to vacate had been given, or the residence had been condemned. The panel therefore finds that with respect to EAPWDR S. 55 (2) (c) the ministry's decision was reasonably supported by the evidence.

With respect to EAPWDR S. 55 (2) (d), the ministry's position is that the appellant did not move within a municipality or unincorporated area to an adjacent municipality or unincorporated area and that the appellant did not move to significantly reduce the family unit's shelter costs. As noted earlier, the panel finds that the evidence indicates that the appellant moved but not within a municipality or unincorporated area to an adjacent municipality or unincorporated area. Additionally, with respect to this provision, the panel finds that there is no evidence that the appellant moved so that the appellant's family unit's shelter costs would be significantly reduced as a result of the move. The panel therefore finds that with respect to EAPWDR S. 55 (2) (d) the ministry's decision was reasonably supported by the evidence.

With respect to EAPWDR S. 55 (2) (e), the ministry's position is that the appellant did not move to another area of British Columbia to avoid imminent danger to physical safety. As there is no evidence that appellant moved to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit, the panel therefore finds that with respect to EAPWDR S. 55 (2) (e) the ministry's decision was reasonably supported by the evidence.

As the panel finds that with respect to the moving costs described in EAPWDR S. 55 (2) (a), (b), (c), (d) and (e), the ministry's decision was reasonably supported by the evidence, the panel confirms the ministry's decision.