

## PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated April 4, 2012 which denied the appellant's request for a moving supplement of \$420 for his expenses moving from city "P" to city "B", on the basis that the appellant did not meet all the statutory requirements of section 55(2)(a)-(e) of the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation.

Specifically, the ministry determined that the appellant had not :

- Moved anywhere in Canada due to having confirmed employment that would significantly promote the appellant's financial independence as required by section 55(2)(a);
- Moved to another province or country to improve his living circumstances as required by section 55(2)(b);
- Moved within or to an adjacent municipality because his accommodation was being sold, demolished or condemned as required by section 55(2)(c);
- Moved within or to an adjacent municipality because his shelter costs would be significantly reduced as required by section 55(2)(d); and
- Moved anywhere in British Columbia to avoid an imminent threat to physical safety as required by section 55(2)(e).

The ministry also denied the appellant's request on the basis that he did not meet the requirements of section 55(3) of the EAPWD Regulation as the appellant did not obtain the minister's approval before incurring the moving costs.

## PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities (EAPWD) Regulation Section 55*

**PART E – Summary of Facts**

At reconsideration, the documents that were before the ministry included the following:

- 1) Request for Reconsideration dated March 8, 2012;
- 2) Emails between the appellant and his landlady dated March 13, 2012 in which the landlady indicates that his rent cheque was returned as not sufficient funds and that there was a NSF charge of \$25;
- 3) A bank draft of \$820 dated March 21, 2012;
- 4) A letter from the appellant dated March 9, 2012 stating that he spoke with *"not less than three different workers about the cost/reimbursement/payment, of the trip between December 8, 2011 and February 2012"*, before his move. The appellant also stated that he used his support money to pay for his move as he understood from his conversations with the ministry worker that he would be reimbursed for his moving costs. The appellant further states that the *"...least expensive and appropriate mode of transportation and moving cost is the cost of his gasoline"* to drive from city "P" to city "B" as that is less expensive than renting a moving truck or hiring a professional moving company.
- 5) A letter from the appellant to the ministry dated March 8, 2012 stating that he had spoken to not less than three financial workers before his move and that each of them had offered *"...very kind sound encouraging advice"* and that the appellant took advantage of that advice to make his move as economically as possible. The appellant states that not one of the ministry workers told him that he was required to take any further steps for preapproval of his moving costs. The appellant states that he had to move to *"...escape his brother's violence and abuse at his family home property"*. The appellant states that he moved to avoid imminent threat to physical safety as his brother shut the water and cut off the electricity to his home while it was – 38 degrees before Christmas. The appellant also states that his brother used *"...an axe to chop holes through the roof of the hood of his truck to terrify his ex-girlfriend and other behavior"*.
- 6) A letter from the appellant to the ministry dated March 7, 2012 stating that since December 2011 he had continuously asked ministry workers how to cover the cost of relocating. The appellant also states that it has been necessary to visit at least one of his doctors in or near city "B" not less than every two weeks. He also states that he required further arterial surgery and that he deals continually with chest pressure, pain and fear. The appellant also attached a building permit application dated December 8, 2011 by his brother to build a new mobile home at the appellant's former address in city "P".
- 7) Copies of cheques to the appellant for food and rent dated April 2011 and February 2012;
- 8) Appellant's handwritten note stamped received by the ministry on March 22, 2012 noting a request for moving money. The note indicates *"cheaper Rent"*, *"Place Sold – forced to move"* .;
- 9) Copy of the appellant's Facebook page from March 10, 2012 regarding his medical condition;

- 10) Vehicle information report (2 pages)
- 11) Letter from a physician dated February 20, 2012 regarding an appointment with a vascular surgeon for March 3, 2012 and a follow up appointment with another specialist after the March 3, 2012 appointment;
- 12) Health Heart Program pamphlet with a handwritten note for an appointment on April 27, 2010;
- 13) Hospital paper with information regarding coronary angioplasty, undated (2 pages);
- 14) Hospital Discharge Summary for the appellant, undated but with a stamp noting received by the Ministry of Employment and Income Assistance on July 13, 2007;
- 15) Note stating that the appellant underwent a coronary artery bypass on January 11, 2007;
- 16) BC Cardiac Registries Native Diagnostic Summary with an exam date 01/05/07;
- 17) Lab Summary Report dated January 16, 2007;
- 18) Radiological Consultation Carotid Duplex Scan dated January 10, 2007;
- 19) Note re abdominal aortic aneurysm, undated;
- 20) HandyDART Application Form 2012 dated March 5, 2012;
- 21) Application for BC Bus Pass Jan – Dec 2012;

In the Reconsideration Decision, the ministry states that the appellant did not satisfy EAPWD Regulation section 55(2)(a) to (e). In particular, the ministry states that the appellant had not moved anywhere in Canada for confirmed employment. As the appellant moved from city "P" to city "B" the ministry stated that he had not moved to another province or country to improve his living circumstances. The ministry states that the appellant had not moved within or to an adjacent municipality because his accommodation was being sold, demolished or condemned as city "P" and city "B" are not considered adjacent municipalities. The ministry also states that although the appellant stated in his Reconsideration Request that he faced imminent threat to his physical safety the ministry was unable to confirm his safety was threatened so the ministry stated that the appellant had not moved anywhere in British Columbia to avoid an imminent threat to physical safety.

In his Notice of Appeal dated April 12, 2012 the appellant states that he disagrees with the ministry's decision "...because it will make me homeless and it is the Ministry's fault/cause".

Neither the appellant nor the ministry attended the appeal. Having confirmed that the parties were properly notified of the hearing, the panel proceeded with the appeal in the absence of the parties as per section 86(b) of the EAPWD Regulation.

Based on the evidence, the panel's finding of facts are as follows:

- Prior to the appellant's move, the appellant's brother shut off the water and cut off the appellant's electricity;
- Prior to his move the appellant spoke to the ministry with respect to his moving costs;
- The appellant moved from city "P" to city "B" and used his support money to cover his moving costs; and
- The appellant requested reimbursement of his moving costs and his request was denied.

The panel further finds that while the information provided by the ministry does not confirm that any meetings or discussions took place with the appellant it does not deny that such meetings and discussions took place.

**PART F – Reasons for Panel Decision**

The issue under appeal is whether the ministry reasonably concluded that the appellant was not eligible for a supplement for moving costs because:

- his circumstances did not meet any of the requirements of EAPWD Regulation section 55(2)(a)-(e); and
- the requirements of EAPWD Regulation section 55(3) (a) and (b) were not met as the appellant did not obtain the minister's approval before incurring the moving costs.

Section 55(2) of the EAPWD Regulation states that 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.

(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...

The appellant's evidence is that he had to move from his accommodation in city "P" to accommodation in city "B" because of his need to attend numerous medical appointments in city "B". The appellant's evidence is that he had so many doctors' appointments that he was spending more time living in his car traveling from city "P" to the Lower Mainland to attend his appointments. The appellant's evidence is also that he had to move to avoid an imminent threat to his physical safety in

city "P" from his brother. The appellant's evidence is that prior to his move he spoke to at least three ministry workers about his moving costs, that he understood that he would be reimbursed for his moving costs and was never informed that he had to take any further steps before moving in order to obtain reimbursement for his moving costs.

The ministry's evidence is that the appellant does not satisfy any of the criteria of Section 55(2)(a) to (e), and that the appellant does not satisfy section 55(3)(b) as he did not obtain prior approval for his moving costs. In particular, the ministry's evidence is that although the appellant advised that the property in city "P" was sold to his brother, the appellant had not moved to an adjacent municipality as required by section 55(2)(c). In addition the ministry's evidence is that although the appellant advised that he moved due to imminent threat to his physical safety, the ministry is unable to confirm that his safety was threatened. The ministry's evidence is that as the appellant did not receive the minister's approval prior to incurring the cost of the move as required by section 55(3)(b), the minister is unable to reimburse the appellant.

The panel notes that although the ministry's Reconsideration Decision states that the appellant had not obtained the minister's approval prior to incurring the moving costs, there was no evidence from the ministry, other than the statement in the Reconsideration Decision, contradicting the appellant's evidence that he had spoken to several ministry workers before moving and understood that he would be reimbursed for his moving costs.

The panel finds that as the appellant did not move anywhere in Canada for confirmed employment, the ministry reasonably determined that the appellant's move did not meet the criteria set out in section 55(2)(a).

The panel finds as city "P" and city "B" are both in British Columbia, the ministry's conclusion that the appellant did not incur moving costs to move to another province or country to improve his living circumstances, as required by section 55(2)(b), was reasonable.

The panel finds that as the appellant did not move to an adjacent municipality, the ministry's conclusion that his moving costs were not required to move to an adjacent municipality because the rental accommodations were being sold, demolished or condemned was reasonable as required by section 55(2)(c) was reasonable.

As city "P" and city "B" are not adjacent municipalities, the panel finds that the ministry's conclusion that the appellant's shelter costs would be reduced by moving to an adjacent municipality as required by section 55(2)(d) were not met was reasonable.

The panel finds that one of the reasons for the appellant's move was to avoid an imminent threat to his physical safety given his brother's actions of turning off the water and electricity during extremely cold weather as well as his brother's building a new home on the property and taking steps to cause the appellant to fear for his physical safety. In particular, the appellant's evidence is that his brother had made it clear that the appellant was not welcome on the premises and the appellant's brother had taken an axe to the hood of the appellant's brother's truck.

While the ministry states that they were unable to confirm that the appellant's safety was threatened, there is no evidence that the ministry requested any further evidence from the appellant to support his

statements that he had to move as there was an imminent threat to his physical safety. There is nothing in the evidence to indicate that the appellant's credibility is in issue or that his statements about the imminent threat to his physical safety are false, so the panel finds that the ministry's conclusion that the requirements of section 55(2)(e) were not met was not reasonable.

With respect to the criteria of section 55(3)(a) the appellant's evidence is that he used his support money to cover his moving costs and after the move he had no resources for his monthly support. With respect to section 55(3)(b) the appellant states that he contacted ministry workers on at least three occasions before his move, was provided with information about reimbursement for his moving costs and understood that he would be reimbursed for his moving costs. The appellant's evidence is that the ministry never advised him that his request for moving costs was denied or that he needed to take any further steps to obtain approval for his moving costs before moving and seeking reimbursement of those costs.

In the Reconsideration Decision the ministry states that "*... a supplement for moving costs may only be considered if there are no resources available to the family unit to cover the costs and the minister's approval has been received before incurring those costs*". The ministry does not provide any further evidence or submissions that the appellant had resources available to cover the moving costs but the ministry states that as the appellant had not received the minister's approval prior to incurring the cost of the move, the minister is unable to reimburse the appellant.

The panel finds that as the appellant used his support money to cover the cost of the move he had no other resources available to him to cover the cost of the move and that the ministry's conclusion that section 55(3)(a) was not met was not reasonable.

With respect to section 55(3)(b) the panel finds that although the appellant did not submit written quotes for approval prior to his move, the appellant did speak to ministry workers about his moving costs prior to incurring those costs. The panel finds that the appellant was in a situation where he could rightfully believe he had been given approval by the ministry for the move because he had been told by ministry workers that they would reimburse him for his moving costs. As the appellant's evidence is that he understood that his request was approved and that he would be reimbursed for his moving costs and as there is no evidence from the ministry disputing the appellant's evidence in this regard, the panel finds that the conclusion by the ministry that section 55(3)(b) was not met was not reasonable.

As neither the appellant nor the ministry attended the hearing, the panel acknowledges that it may well be that the appellant misunderstood the advice of the ministry workers and that they were giving him advice about how to move and keep his moving costs to a minimum rather than providing him with approval of his moving costs. However, as there is no evidence from the ministry disputing the appellant's evidence and there is no evidence from the ministry confirming that they had told the appellant something further was required to obtain prior approval for his moving costs, the panel finds that it was unreasonable for the ministry to apply the regulation in such a strict manner in the circumstances of the appellant.

In conclusion the panel finds that the ministry's reconsideration decision was not reasonably supported by the evidence and was not a reasonable application of the legislation in the circumstances of the appellant. The ministry's decision is overturned in favor of the appellant.