

PART C – Decision under Appeal

On March 20, 2012 the Ministry decided that the Appellant must repay the sum of \$1,415.92 which was provided to the Appellant as a moving supplement pursuant to section 57(2) of the Employment and Assistance Regulation. The Appellant and her spouse did not move to the city for which she had applied and did not inform the Ministry of the change in circumstances that would have affected her eligibility as required under section 11 of the Employment and Assistance Act. The Ministry decided that if she had reported this change in circumstances she would have been required to return the cheque as she was no longer eligible for it.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) sections 57 and 27.
Employment and Assistance Regulation (EAR) section 11.

PART E – Summary of Facts

The evidence before the Ministry on Reconsideration included the following:

- Overpayment Chart for Appellant's spouse dated February 2012
- Letter from Motel in City B re Appellant's employment dated February 6, 2012
- U Haul Equipment Contract to City B dated February 9, 2012 for \$985.92
- Overpayment Notification dated March 2, 2012
- Five gas receipts totaling \$300 dated March 1, 2012
- One gas receipt totaling \$30 dated March 3, 2012
- Three gas receipts totaling \$80 dated March 5, 2012
- Residential Tenancy Agreement for City C dated March 4, 2012
- T4A issued to Appellant for \$1310 dated 2011
- Two handwritten submissions submitted with Request for Reconsideration

The Appellant submitted the following additional evidence to which the Ministry did not object:

- Copies of the Appellant's calendar with notations for February, March and April 2012
- Two pages of listings for rental agents in City B
- U Haul Equipment Contract to City C dated February 29, 2012 for \$778.80
- Note re Ad in Classified dated February 8, 2012
- Undated Letter from Motel in City B re Appellant's employment
- Three pages of Work Search Activities Record dated March 3, 2012
- Document entitled "Move In Incentive" dated March 11, 2012

The panel decided that the additional evidence submitted by the Appellant was in support of the information that was before the Ministry on Reconsideration and was therefore accepted pursuant to section 22(4) of the EAA.

The facts are not in dispute. The Appellant and her spouse are recipients of income assistance as a family unit. In February the Appellant applied for a moving supplement in order to move from City A to City B to accept a job. The job was described in the undated letter from the Motel as "In regards to Ms [Appellant] for future employment with us in as needed bases (sic). I have spoken to [Appellant] in regards to employment with as soon as a position becomes available." The Appellant was advised by the Ministry that this was not sufficient for a moving supplement so the Appellant submitted a second letter from the prospective employer dated February 6, 2012 which stated in part "I am writing on behalf of the hotel to inform you that I have a position open for a housekeeper. Therefore, I am more than willing to hire the person by the name of [Appellant]... This position is available to her as soon as she can arrive in [City B]" The Appellant and her spouse were granted a moving supplement of \$1415.92 based on the cost of renting a U Haul, 1300 km at the Ministry rate of \$0.20 per kilometre or \$260; one night's accommodation \$120 and \$50 for food and sundries on February 9, 2012. On February 20, 2012 the Appellant and her spouse were advised that their application for rental accommodation in City B was declined. They therefore did not have anywhere to live in City B. The Appellant and her spouse decided that they would not have had sufficient funds

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to travel to City B in any event. They decided to move to City C instead which was 500 km away instead of 1300 km. They did not advise the Ministry of this change. When they got to City C and applied for their shelter allowance it was refused because the Ministry said they were expected to be in City B. The Appellant and her spouse and four cats had to stay with a friend and their belongings were stored in different places and it was not until March 11, 2012 that they were able to move into a rented apartment in City C. The Appellant's spouse found a job within a week of moving to City C and the Appellant found a job by April 17, 2011. The Appellant and her spouse no longer require income assistance. The Ministry requires the Appellant to repay the moving supplement in the amount of \$1415.92. No interest has been charged on that amount and no fine or penalty has been requested.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the Ministry's decision to require the Appellant to repay the funds issued to her as a moving supplement in the amount of \$1,415.92 as the Appellant had a change in circumstances which, if it had been reported to the Ministry as required, would have made the Appellant ineligible for that moving supplement.

The relevant sections of the EAA state as follows:

Reporting obligations

- 11 (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must
- (a) submit to the minister a report that
 - (i) is in the form prescribed by the minister, and
 - (ii) contains the prescribed information, and
 - (b) notify the minister of any change in circumstances or information that
 - (i) may affect the eligibility of the family unit, and
 - (ii) was previously provided to the minister.
- (2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

Overpayments

- 27 (1) If income assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.
- (2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 17 (3) [*reconsideration and appeal rights*].

The relevant sections of the EAR state as follows:

Supplements for moving, transportation and living costs

57 (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 income assistance, other than as a transient under section 10 of Schedule A, 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 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 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 20 [*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.

The Appellant argued that the goal of the legislation is for the moving supplement to be used to help recipients of income assistance find work and support themselves. She says she and her spouse have accomplished that by moving to City C. They both have secure jobs and no longer require income assistance. They feel they are being punished by having to repay the moving supplement when it turned out to be a good idea to move to City C. Furthermore she says that the Ministry in City A did not inform her that she was required to advise the Ministry of any changes to their moving plans.

The Ministry's position was that the reconsideration decision was correct. The legislation contemplates a moving supplement being granted only when certain criteria have been met. Here it was the confirmation of a certain job in City B which met the requirements in section 57(2)(a). The Ministry was not advised of the Appellant's decision to move to City C instead of City B. If the Appellant had advised the Ministry she would have been required to return the moving supplement of \$1,415.92 and to reapply for City C. She would not have been granted a moving supplement for City C because she did not have a confirmed job.

Section 11 of the EAA sets out a general obligation of all income recipients to report any change in circumstances that would affect eligibility. Section 57(3)(b) of the EAR states that the moving supplement will only be granted if the Ministry approves the expenses before they are incurred. The panel finds that the Appellant knew that the moving supplement she received was only approved after a specific job in City B was approved and that the supplement of \$1415.92 was specifically based on the cost of moving to City C. It was reasonable for the Ministry to require the Appellant to report her decision not to move to City B and to return the moving supplement. Section 27 of the EAA sets out the specific obligation to repay income assistance for which a recipient has been found to be ineligible.

The panel finds that the Ministry's decision to require the Appellant to repay the moving supplement of \$1,415.92 was a reasonable application of the applicable enactments in the circumstances of the Appellant and therefore the Ministry's decision is confirmed.