

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated July 31, 2012 which found that pursuant to section 4 of the Employment and Assistance Act and section 57 of the Employment and Assistance Regulation, the appellant was not eligible for a moving supplement because the appellant had resources available from a friend to assist with the move and that the appellant did not receive pre-approval from the ministry for the cost of the friend's assistance as set out section 57 (3)(a) and (b).

PART D – Relevant Legislation

Employment and Assistance Act, Section 4

Employment and Assistance Regulation, Section 57(1), (2), (a), (b), (c), (d), (e), (f), (h), (i), (ii), (3), (a), (b), (4), (a), (b)

PART E – Summary of Facts

In its Reconsideration Decision, dated July 31, 2012, the Ministry indicated under Summary of Facts that the following was a summary of the key dates and information related to the appellant's Request for Reconsideration:

1. June 29, 2012 – Ministry advised the appellant that she was not eligible for additional funds for a moving supplement
2. July 26, 2012 – Appellant submitted a Request for Reconsideration
3. July 31, 2012 – Ministry completed its review of the appellant's Request for Reconsideration

Further, as per the receipt stamp of July 26, 2012, the Ministry had the following documents in its possession at the time of the Reconsideration Decision:

4. Undated estimate from a moving company for \$650.00 which included cost for moving truck and labour
5. Undated estimate from a second moving company for hourly rate/insurance/mileage for moving truck
6. Undated estimate for a moving truck for \$148.76
7. Estimate from appellant's friend dated July 3, 2012 for \$160.00 for time/labour for driving the moving truck and moving the appellant's belongings

And further, the Ministry had the following document in its possession:

8. Shelter Information document dated June 29, 2012

In the Notice of Appeal dated August 7, 2012, the appellant says that she disagrees with the Ministry decision. She indicates that she was told by a Ministry worker that if her friend provided a note indicating his cost to assist in the move, that the Ministry would pay this amount. She also indicated that neither she nor her son had a driver's license and were therefore unable to drive the moving truck. Further, she was physically unable to lift heavy objects like furniture thereby requiring the assistance of someone who was able to do and/or assist her son with the physical work involved.

At the hearing, the appellant confirmed the evidence provided in the Notice of Appeal and indicated that since she was given verbal approval on July 3, 2012 if her friend provided a letter outlining the costs to assist in the move, she went ahead and reserved the moving truck for the following day, July 4, 2012. When she was contacted by the Ministry late on the afternoon of July 3, 2012 indicating that her request for her friend to be paid to assist with the move had been denied, she felt that it was too late to cancel the arrangements already made with the moving truck company. Further, she indicated that since her current residence was for sale, that her friend was only available on July 4 to assist, and that postponing the move would have been for at least another week, she had no alternative but to proceed with the move as planned.

The appellant indicated that she had done all that was requested of her by the Ministry including finding a less expensive place to live and providing three quotes for moving. She questioned why the request to pay for her friend's time was denied since the cost of the moving truck and her friend's assistance was by far the least expensive option.

At the hearing, the Ministry took the position that the reconsideration decision was reasonable and supported by the evidence and applicable legislation. The Ministry referenced the July 29, 2012 Request for Reconsideration, in which it was noted that although the appellant met the requirement to

be moving to cheaper accommodation as set out in section 57 ((2)(d), the eligibility requirements set out in section 57(3)(a) and (b) were not met because her adult son (also a Ministry client) was living with her and was therefore a resource available to the appellant, and the move had already been completed.

The Ministry provided the following new evidence in support of that presented at the Reconsideration Decision including a detailed description from Ministry computer records of the events of July 3, 2012 as follows:

1. 11:20 am - After reviewing the appellant's moving request, a Ministry worker contacted the appellant and advised her to bring in all quotes, including one for appellant's friend
2. Appellant provided quotes later that day
3. 2:30 pm – Appellant speaks to Ministry on another matter
4. 4:00 pm – Ministry contacts appellant indicating that the supervisor had only approved the cost for the moving truck and not the cost for the assistance of the appellant's friend indicating that such assistance is considered in some situations, but not this case
5. Appellant continues with plans to move on July 4, 2012, using the moving truck and accepting her friend's assistance with the move.

The Ministry indicated that the friend's quote was denied because the labour quote of \$20 per hour was considered too high since the friend was not insured for this type of work. In conclusion, the Ministry took the position that the reconsideration consideration was reasonable and supported by the evidence and applicable legislation.

The panel determined that the additional oral testimony provided by the Ministry and noted above was new evidence in support of the information and records before the Ministry at the reconsideration hearing and therefore admitted it under section 22(4) of the *Employment Assistance Act*.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's Reconsideration Decision which found that pursuant to section 4 of the Employment and Assistance Act and section 57 of the Employment and Assistance Regulation, the appellant had not received the Minister's approval for a moving expense supplement before incurring the moving costs and that the family unit was able to secure resources for the services for which the supplement was requested.

Section 4 of the EA provides as follows:

4. Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

Section 57(1) of the EA Regulation provides as follows:

57(1) "moving cost" means the cost of moving a family unit and its personal effects from one place to another;

Section 57(2)(d) of the EA Regulation provides as follows:

(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:

(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;

Section 57(3)(a), (b) of the EA Regulation provides as follows:

(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.

Section 57(4) of the EA Regulation provides as follows:

(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 position as set out in the Notice of Appeal is that she disagrees with the decision denying her the moving supplement. The appellant indicated therein that she had found cheaper and safer accommodations and had done everything the Ministry requested including providing three moving quotes. She had accepted her friend's offer because it had been verbally approved by the Ministry, and the plan she had arranged was not only the cheapest as required by EA Regulation section 57(4)(a), it was the only appropriate option since she did not have a driver's license.

The Ministry's position is that although the appellant met many of the eligibility requirements for a supplement, the eligibility requirements set out in section 57(3)(a), (b) were not met (resources were

available to the appellant and the appellant did not receive the Ministry's approval before incurring the additional moving costs associated with utilizing the assistance of her friend).

The Ministry found that the appellant met the criteria for eligibility set out in section 57(2)(d) and section (4)(a) in so far as the cost of the new accommodation would be significantly reduced and the combination of the truck rental and the friend's moving assistance would have been the least expensive appropriate mode of moving given the appellant's lack of a driver's license.

The Ministry found that the appellant was not eligible for assistance under section 57(3)(a), because resources were available to the family unit to cover the costs for which the supplement may be provided. The panel found that this was not a reasonable application of the applicable enactment in the circumstances of the appellant, since neither the appellant nor her son had a driver's license and would not have been able to drive the moving truck.

However, the Ministry was reasonable in its determination that as evidenced by the appellant's decision to go ahead with the move on July 4, 2012 despite the Ministry's phone call on July 3, 2012 indicating that approval for the friend's expenses was denied, the appellant did not receive approval before incurring the costs in question and therefore did not meet the requirement set out in section 57(3)(b).

Since the appellant did not meet the requirements of both section 57(3)(a) and (b) in order to be eligible for assistance, the panel therefore confirms the Ministry's decision as it was reasonably supported by the evidence.