

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated August 27, 2012 which denied the appellant's request for a supplement for moving costs as the criteria under Section 55 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) had not been met, including:

- the moving costs are not to assist with one or more of the listed reasons for the move; and
- the ministry's approval was not received before incurring the moving costs.

PART D – Relevant Legislation

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

Employment and Assistance for Persons With Disabilities Act (EAPWDA), Section 5

PART E – Summary of Facts

The evidence before the ministry on Reconsideration included the following documents:

- 1) Printout of pages from website regarding Fibromyalgia;
- 2) Business cards for victims services with the police for another municipality;
- 3) Undated satisfaction survey for a shelter in another municipality;
- 4) Letter dated May 28, 2010 from B.C. Housing 'To Whom It May Concern' stating in part that the appellant needs to move from her current municipality back to another municipality because of physical safety reasons;
- 5) Letter dated June 1, 2010 from B.C. Housing to the ministry stating in part that the appellant has organized a moving truck for this day but arrangements between the organizations had not been made for funding;
- 6) Note dated October 14, 2012 from a physician 'To Whom It May Concern' stating in part that the appellant has multiple medical issues including chronic back pain, generalized weakness, jaw problems and constipation;
- 7) Letter dated October 15, 2012 from B.C. Housing to the appellant stating in part a warning that if the appellant's aggressive behaviour and verbal abuse towards staff continues, her file will be cancelled;
- 8) Handwritten journal notes of the appellant covering the period from to November 8, 2011 through March 16, 2012;
- 9) Undated note from a continence clinic stating that the appellant has been referred for an assessment and treatment;
- 10) Outpatient Clinic Report dated November 21, 2011 regarding urodynamics testing;
- 11) Letter dated October 6, 2011 from B.C. Housing to the appellant stating in part that on March 10, 2011 a community care plan meeting was held at a shelter where the appellant was living at the time and attended by representatives from groups that had provided services to the appellant since she moved to another municipality. The members at the meeting discussed the appellant's need for a supported housing environment in relation to her history of unsuccessful tenancies. A vacancy was located at a supported residence and the appellant moved to this location in April 2011. The appellant agreed to reapply to B.C. Housing once she successfully graduated from a program and required a more independent living arrangement. The appellant will require a Health Services assessment to determine her ability to live independently prior to obtaining housing with B.C. Housing;
- 12) Application for Tenancy dated November 27, 2011 for a residence in another municipality;
- 13) Statement of Personal Income dated January 23, 2012;
- 14) Letter dated March 1, 2012 from an at-home study research program to the appellant;
- 15) Letter dated March 21, 2012 from the Ombudsperson to the appellant regarding her complaint about B.C. Housing and stating in part that a file had been opened;
- 16) Handwritten note dated April 27, 2012 from the appellant stating in part that the residence in another municipality is wanting her to apply for another accommodation but she has explained to B.C. Housing that this is setting her up for the person who committed acts of violence against her to find her, that she is frightened;
- 17) Letter dated May 3, 2012 from the Ombudsperson to the appellant regarding her complaint about B.C. Housing;
- 18) Letter dated May 5, 2012 from a residence in another community stating in part that the Notice to End the appellant's tenancy by May 31, 2012 has been received;
- 19) Brief Pain Inventory dated June 11, 2012;
- 20) Shelter Information dated July 14, 2012 indicating the appellant is paying \$391 per month for room and board with meals included at an address in her current community;
- 21) Shelter Information dated July 24, 2012 indicating the appellant is paying \$700 per month for rent with utilities included at an address in her current community;
- 22) Service Request Form dated July 24, 2012 which states in part that the appellant has been paying for her storage over \$3,000 for 3 years and she needs her belongings for a new place, she needs emergency help and then someone to help her move the belongings; and,
- 23) Request for Reconsideration- Reasons dated August 15, 2012.

In her Notice of Appeal, the appellant states that she has secured accommodations and she is currently looking to find low income housing or some housing supplements. The appellant states that there is currently little available and she has applied to multiple organizations. The appellant states that she needs financial assistance to move her belongings to her place as she has nothing. The appellant states that she left the other municipality for her own safety and well-being. The appellant states that she has until September 10th to get her belongings out of storage before they are disposed of. In her Request for Reconsideration, the appellant states that she needs her bed as it is for bad backs. The appellant explains that she has bladder damage and possible liver and kidney (damage). The appellant states that she has been sleeping on the floor, that it hurts all the time. The appellant states that the stuff in the locker was supposed to come 1-2 weeks after she left her original community. The appellant states that she has ended up paying for storage for over 3 years. The appellant states that she is being put through hardship with no bed, no utensils, no pots and pans.

At the hearing, the appellant stated that this all started 3 years ago when B.C. Housing told her that they had found her a one-bedroom wheel-chair accessible unit and the ministry told the appellant she had to go. This move involved leaving her current community and going to another municipality in B.C. The appellant stated that she put her belongings into storage and traveled to the new municipality. The appellant explained that when she moved to the other municipality she only took the basics with her because she thought that her belongings would be moved within 2 or 3 weeks, once she got settled, and the ministry said it would cover the cost of moving her belongings. The appellant explained that she found out that the one-bedroom unit was double-rented and she had to go into a shelter, which is only temporary accommodation for up to 30 days. The appellant stated that she was using a wheelchair at the time which made her "an easy target" and she was taken advantage of and abused at the various shelters and then raped and tortured by someone that she could not identify. The appellant stated that she has paid \$280 every month for the last three years for her belongings to remain in storage and that they are currently still there because she has not secured a one-bedroom unit until now. The appellant stated that she also has some items in storage in the other municipality and she is trying to find a volunteer with an empty truck to bring her things to her.

The appellant stated that she went to the ministry in May 2012 and asked if she could move back to her previous community because she remained in constant fear that the person who had raped her would find her again and she has family and friends in the previous community while she had no one for support in the other municipality. The appellant stated that she moved back to her previous community and at first she was living in her car and had a hard time finding a place, but now that she has found a place, her living conditions have been much better. The appellant stated that her current residence has a swimming pool and she has gone to the wellness centre, she is getting much more help and she is no longer in fear of a repeat of the violence committed against her. The appellant stated that she needs her belongings that are currently in storage and that, besides her need for a bed and the kitchen items, she feels that her belongings are a part of her life before she experienced an accident and they will help her to rebuild her identity. The appellant stated that she was told by the ministry that she needed to find a one-bedroom unit before she could take her belongings out of storage because there would not be enough room otherwise. The appellant stated that she moved from her previous residence in the community, for which the "room and board" was \$391 per month, because only one meal per day was provided, which is not what she had understood would be the case, and her current residence is a one-bedroom unit and she thought this would finally make her eligible to get her belongings out of storage. The appellant stated that the rent at her current residence is \$700 per month, that this includes utilities which are heat/ air conditioning, cable and internet. In response to a question, the appellant stated that she has become involved with a church and they have put up \$200 to pay the storage facility so they would not dispose of her belongings on September 10, 2012, but she has to pay this money back. The appellant stated that a minister from the church talked to someone at the storage facility and they agreed to accept \$850 to allow her to take her belongings out of storage and she has found volunteers with a truck who are willing to move her items to her new residence at no cost to her. The appellant stated that she only needs help to cover the cost of storage so that she can get her belongings and that somehow the moving costs got mixed in with her request.

The Ministry relies on the reconsideration decision and states that the appellant has the Persons With Disabilities (PWD) designation. On July 24, 2012, the appellant submitted a form requesting financial assistance to move her belongings. She stated that she required her belongings for her new residence. On July 25, 2012, the moving company faxed a moving quote to the ministry for \$1,715, the cost of moving her belongings from her storage unit to her new address in the current municipality. The fax indicated that the appellant owes \$840 for storage costs from May 10, 2012 to August 10, 2012. The appellant has not arranged confirmed employment in the current municipality. The appellant is requesting a supplement to cover the costs of moving within the current municipality and not to another province or country. There is no evidence provided that the appellant's previous residence was being sold or demolished. The appellant's current rent is \$700 and her previous rent was \$391, therefore her rent costs have not been reduced. The appellant did not provide supporting documentation that the need to move to her current residence was in order to avoid an imminent threat to her physical safety, and the appellant did not move to attend a child protection hearing. The appellant did not receive prior approval from the ministry before incurring costs associated with her move.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the decision by the ministry, which denied the appellant's request for a supplement for moving costs under Section 55 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) as the moving costs are not to assist with one or more of the listed reasons for the move and the ministry's approval was not received before incurring the moving costs, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislative criteria to be considered eligible for the supplement for moving costs are set out in Section 55 of the EAPWDR as follows:

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 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.

The appellant's position is that she asked the ministry in May 2012 if she could move back to her previous community because she remained in constant fear that the person who had committed violence against her would find her again and she needed the support of family and friends in the previous community. The appellant argues that the move from the other municipality to her current community has resulted improved living conditions, that she is getting support and is no longer in fear of a repeat of the violence committed against her. The appellant argues that even though the rent is higher in her current residence, that when it is considered compared to the higher costs associated with the previous residence, like the rent of \$391 plus the cost of storage at \$280 per month, it is not that much more. The appellant argues that she needs her belongings, that besides her need for a bed and the kitchen items she feels that her belongings are a part of her life before she experienced an accident and they will help her to rebuild her identity. The appellant argues that she was told by the ministry that they would pay to have her belongings moved when she found a one-bedroom unit. The appellant argues that she has a one-bedroom unit and this should make her eligible to receive payment from the ministry to get her belongings out of storage. The appellant points out that the storage facility agreed to accept \$850 to allow her to take her belongings out of storage and she has found volunteers with a truck who are willing to move her items to her new residence at no cost to her. The appellant argues that she only needs help to cover the cost of storage so that she can get her belongings and that somehow the moving costs got mixed in with her request.

The ministry's position is that the appellant did not move to her current residence because of confirmed employment, has not moved to another province or country, did not move to avoid imminent danger, nor because her previous residence is being sold, demolished or condemned, and that her shelter costs have not been significantly reduced. The ministry argues that the appellant moved within the local area to a residence with a higher rate of rent so the moving costs are not to assist with one or more of the reasons for the move as set out in the legislation. The ministry argues that the appellant did not receive prior approval from the ministry before incurring costs associated with her move.

Section 55(1) of the EAPWDR includes a definition of the costs that are provided for in the section, namely "living cost", which is the cost of accommodation and meals, "moving cost" being the cost of moving a family unit and its personal effects from one place to another and "transportation cost" means the cost of travelling from one place to another, and the panel finds that the cost for rental of a storage unit is not specifically included in these definitions. However, the panel also finds that the cost for rental of a storage unit is not excluded from the section where the cost can be said to be part of the cost for moving a family unit and its personal effects from one place to another in the specific scenarios set out in the section and would be considered an integral part of a request for a supplement for moving costs. The ministry's policy for moving, transportation and living costs states that storage fees can be considered "moving cost" and paid by the ministry when a family's possessions must be stored for a limited period of time and clients are only eligible to have their storage locker fees paid if they are eligible for the supplement.

Section 55(2) of the EAPWDR provides for a moving supplement to assist with one or more listed reasons for a move which, for local moves, include where required to move for commencing employment, because the

rented accommodation is being sold or demolished and a notice to vacate has been given or the accommodation has been condemned, if the shelter costs would be significantly reduced as a result of the move, or to avoid an imminent threat to the physical safety of any person in the family unit. The panel finds that although the appellant states that her rent is not much higher when the costs of storage are considered, the section refers to "shelter costs" which the panel finds includes the amount of her rent and does not include storage fees. The panel finds that the appellant moved within the same community from premises with a rent of \$391 to premises with a rental of \$700, or an increase of \$309 per month. Further, the panel finds that there is no evidence provided that the appellant's move is required to commence employment, or that there has been a notice to vacate or the accommodation has been condemned, nor that it is to avoid an imminent threat to the physical safety of any person in the family unit. The appellant stated that her previous move from the other municipality to her current community was precipitated by her fears of a threat to her physical safety, but the appellant admitted that does not apply to her current move between residences in the same community. The appellant also stated that her living circumstances have improved as a result of her move between residences, however the panel finds that subsection 55(2)(b) applies to moves to another province or country and not to a move within the province and within the same municipality, as is the case for the appellant's current move. Therefore, the panel finds that the ministry's determination that the appellant's moving costs are not to assist with one or more of the reasons for the move as set out in Section 55(2) of the EAPWDR was reasonable.

Section 55(3)(b) of the EAPWDR states that a family unit is eligible for a supplement only if a recipient in the family unit receives the ministry's approval before incurring those costs. The appellant submitted a request for financial assistance to move her belongings on July 24, 2012 and the moving company faxed a quote to the ministry on July 25, 2012 for \$1,715, which was for the cost of moving the appellant's belongings from her storage unit to her new address in the current municipality. The fax indicated that the appellant owes \$840 for storage costs from May 10, 2012 to August 10, 2012. The panel finds that the appellant has not yet moved her belongings from the storage unit, that she sought the ministry's approval before incurring the costs of moving her belongings, but she has now secured volunteers with a truck who are willing to move the appellant's belongings at no cost to her. However, the panel finds that the costs for rental of the storage unit were incurred when the agreement was entered into between the appellant and the storage company, approximately 3 years ago, as this is when the appellant assumed the legal obligation to pay a monthly amount for the storage unit. There was no evidence presented that the ministry's approval was obtained by the appellant prior to this time, approximately 3 years ago, for the ministry to assume the ongoing costs of storing her belongings. The appellant admitted that the storage was entered into at that time to facilitate her move from her current community to the other municipality and that, due to a number of unfortunate events, the appellant did not secure the one-bedroom unit that she needed to accommodate her belongings, as required at the time. The panel finds that the ministry's determination that the ministry's approval had not been received by the appellant prior to the appellant incurring the moving costs was reasonable with respect to the storage fees and that although the appellant sought the ministry's approval prior to incurring the costs of moving, she has now made an arrangement where her belongings will be moved at no cost.

Overall, the panel finds that the ministry's decision which denied the appellant's request for a supplement for moving costs under Section 55 of the EAPWDR, was reasonably supported by the evidence and confirms the ministry's decision.