

PART C – Decision under Appeal

In a reconsideration decision dated 29 August 2012, the Ministry denied the Appellant's request for a moving supplement because it determined the Appellant's situation did not meet the eligibility criteria for a moving supplement as set out in the Employment and Assistance for Persons With Disabilities Regulation, Section 55, specifically the Appellant's circumstances were not any of those listed Section 55(2).

PART D – Relevant Legislation

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

PART E – Summary of Facts

The evidence before the Ministry at the time of the reconsideration decision included:

- Two quotes for moving costs, one for \$1,375.00, the second for \$5000.00,
- A note from the Appellant stating a self move would cost \$855.00,
- A note received from the Appellant on August 31, 2012 stating that the savings in rent between her original rent in Town A and her proposed Town B is \$160 per month.
- A note (3 pages) from the Appellant dated August 30, 2012 explaining her reasons for the move.

In the note dated August 30, 2012, the Appellant explains she is on “2nd level disability” and lives with her common law spouse and their daughter. She states in addition to “previously addressed reasons around our move from” Town A, it is her understanding that she is allowed and encouraged to improve the quality of her life. She states she cannot work due to her disability and her spouse is needed at home and cannot work. She believes the move will improve her family’s quality of life and encourage them to succeed. She states presently their personal belongings are in storage in Town A causing her family to be at a “standstill” and unable to improve their wellbeing.

The Ministry states the Appellant’s initial request was to move from Town A to Town B, however, during the reconsideration process, the Appellant clarified her request was to move from Town A to Town C. The Ministry submits that a notation on the Appellant’s file indicated the Appellant first moved in Town A due to the neighbor’s inappropriate drug use, that they made a temporary move to a bed and breakfast but found it was infested with mice, then the family camped for a time before settling in Town C.

The Ministry concludes the move has not been made for employment or to avoid an imminent threat to the Appellant’s physical safety. Furthermore the Ministry notes that Town C is not an adjacent community to Town A.

At the hearing the Advocate (the Appellant’s common law partner) and the Appellant detailed the issues around their initial move in Town A. They stated that there was a “grow –op” next door and a drug dealer across the street. They explained that they were concerned about the dangers living so close to such activities for themselves. Out of concern for their daughter, they asked both parties to respect their yard and the fact they had a baby playing outside. As a result, the neighbors began to threaten and intimidate them. They became scared for their family’s safety and moved out within 3 days. When questioned, why these reasons were not specified in the Appellant’s request for reconsideration, the Appellant stated that she has an anxiety disorder from previous violence in her life and it’s hard for her to talk or think about potential violent situations. She also assumed that the Ministry office in Town A already knew enough of the situation.

At the hearing the Ministry submitted the oral testimony from the Appellant is new evidence that was not before the Ministry at the time of reconsideration. The Ministry submitted the Appellant is not eligible for the supplement because she did not move for employment; that although she indicates she is improving her quality of living, she did not move to another province or country; she did not move because her residence was being sold, demolished, or condemned, neither was she given notice to move. Furthermore, although her shelter costs are lower, she did not move within or adjacent to a municipality or unincorporated area. Finally, the Ministry stated that at the time of

reconsideration, an imminent threat to the physical safety of any person in the family unit was not confirmed.

The Panel finds from review of documents before the Ministry, including the Appellant's request for reconsideration that the danger the Appellant felt that predicated her initial move was not documented or confirmed at the time of reconsideration. The Panel finds these facts to be new evidence and not in support of information and records that was before the Ministry at the time of the reconsideration and therefore is not admissible under Section 22(4) of the Employment and Assistance Act.

The Panel finds from the evidence presented that:

- the Appellant is a recipient of disability assistance,
- the Appellant is not employed,
- the Appellant's common law spouse is not employed,
- the Appellant's current shelter cost is approximately \$650 - 675, previously it was \$860,
- Town C is neither within or adjacent to Town A.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant's request for a moving supplement because it determined the Appellant's situation did not meet the eligibility criteria for a moving supplement as set out in the EAPWDR, Section 55. The criteria is set out 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 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;

The Ministry argues the Appellant's circumstances did not meet any of the criteria under EAPWDR Section 55(2) and specifically, the Appellant has not moved for employment to promote financial independence or to avoid an imminent threat to her or her family unit's physical safety.

The Appellant argues the move initially was to avoid threats and intimidation from neighbors and will promote and improve her family's quality of life and encourage them to succeed.

The Appellant has stated that neither she or her common law spouse are employed in Town C, therefore the Panel finds the Ministry reasonably determined that the Appellant is not eligible for the moving supplement under Section 55(2)(a).

The Appellant submits the move was the best decision for her family and once they obtain their personal belonging out of storage, the move will promote improvement with her family's quality of life

and encourage them to succeed, however the legislation specifies the move under this section must be to another province or country. The Panel finds the Ministry reasonably determined that the Appellant is not eligible for the moving supplement under Section 55(2)(b).

No information was submitted to establish that the move was necessary because the accommodation in Town A was being sold or demolished, that the Appellant was given a notice to vacate or it was condemned. The Panel finds the Ministry reasonably determined that the Appellant is not eligible for the moving supplement under Section 55(2)(c).

The information provided established the Appellant's monthly rental has decreased \$650 - \$675 per month, however eligibility for a moving supplement due to a significant reduction of shelter costs under Section 55(2)(d) is specified only to a move within a municipality or an adjacent municipality. It has been established that neither Town B nor Town C are adjacent to Town A. The Panel finds the Ministry reasonably determined that the Appellant is not eligible for the moving supplement under Section 55(2)(d).

At the time of reconsideration, no information was submitted to establish that the move was necessary to avoid imminent threat to the Appellant or her family unit's physical safety. The Panel finds the Ministry reasonably determined that the Appellant is not eligible for the moving supplement under Section 55(2)(e).

The Panel finds the Ministry decision was a reasonable application of the applicable enactment in the circumstances of the Appellant and confirms the decision.