

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of August 29th, 2012 wherein the ministry denied the appellant a moving supplement under section 55(1) Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) as the appellant did not meet the criteria (circumstances) set out in section 55(2) EAPWDR - the ministry relied on the fact that although the appellant's shelter costs would be significantly reduced the appellant was not moving to an adjacent municipality; the appellant has not confirmed employment that would significantly promote financial independence; or, that the move is necessary to avoid imminent threat to the appellant's physical safety in the decision.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPDWA), section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 55

PART E – Summary of Facts

With the consent of both parties this appeal was conducted in writing as provided in section 22(3)(b) Employment and Assistance Act (EAA).

The evidence before the ministry at the time of reconsideration:

- Request for reconsideration dated August 27th, 2012.

The appellant requested a moving supplement to assist the family unit in moving from City A to City B within BC. The appellant has tried for 6 years to move into low income housing to reduce her shelter costs but to date no low income housing has come available in close proximity to City A. The move to City B would reduce the appellant's shelter costs by \$305.00 monthly and then she could attend to her visual needs and find employment. The appellant stated she had found employment in City A however had to quit working because her eye glasses were not sufficient to permit her to do her job and she doesn't have funds for an eye exam and replace her corrective lenses. In the reconsideration decision the ministry addressed two criteria, section 55(1)(a) and 55(1)(e) EAPWDR to meeting the appellant's circumstance. Section 55(1)(a) EAPWDR states the move can be anywhere in Canada if there is confirmed employment and if the employment would significantly promote financial independence and section 55(1)(b) EAPWDR states to move to another area of BC to avoid imminent threat to your personal safety. The appellant stated she is not moving to avoid an imminent threat to personal safety that she is moving to significantly reduce her shelter costs which falls under section 55(1)(d) EAPWDR as the move must be within or to an adjacent municipality and City B should be considered an adjacent municipality.

On September 19th, 2012 the appellant provided a two page written submission for consideration by the panel. The submission contains 22 separate points. The submission outlines the appellant's position; that in City B she may become more employable; her shelter costs will be reduced by \$305 a month; rationale for requesting her move to low income housing; and arguments in support of her position – a legal definition of the term adjacent which is part of the criteria stated in section 55(2)(d) EAPWDR.

The panel finds this submission contains information or evidence that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

On October 9th, 2012 the ministry provided a one page written submission in response to the appellant's submission stating that City B is not, in the ministry's opinion, considered to be adjacent to City A; that the cities are approximately 120 kilometers (km's) apart and there are other municipalities between them as well.

The panel finds this submission contains information or evidence that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of August 29th, 2012 wherein the ministry denied the appellant a moving supplement under section 55(1) EAPWDR as the appellant's circumstances did not meet the criteria set out in section 55(2) EAPWDR - the ministry relied on the fact that although the appellant's shelter costs would be significantly reduced the appellant was not moving to an adjacent municipality; the appellant has not confirmed employment that would significantly promote financial independence; or, that the move is necessary to avoid imminent threat to the appellant's physical safety in the decision.

The legislation considered: EAPWDR

Supplements for moving, transportation and living costs

Section 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 fulfill

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 (1) (f) or (g), the least expensive appropriate living costs.

The ministry argued the appellant has requested a moving supplement to facilitate a move to City B to secure low income housing to reduce her shelter costs but the only way the ministry is permitted to provide the supplement is if the appellant's circumstances meets one of the criteria set out in section 55(2) (a) to (e) EAPWDR. The ministry argued that if she had confirmed employment and the employment would significantly promote financial independence (section 55(2)(a) EAPWDR; or if the move was within a municipality or unincorporated area or to an adjacent municipality and would significantly reduce her shelter costs (section 55(2)(d) EAPWDR); or if the appellant was moving to avoid an imminent threat to her personal safety (section 55(2)(e) EAPWDR) then the ministry would grant the supplement. The ministry argued the appellant's circumstance does not meet any of the criteria in section 55. The ministry argued that although the appellant's shelter costs will be significantly reduced by moving to City B, the ministry does not consider that City B is in a municipality adjacent to City A as the distance between the cities is approximately 120 km's. The ministry also argued the appellant is not moving to avoid an imminent threat to her physical safety nor has she confirmed employment in City B that would significantly promote financial independence for the appellant.

The appellant argued that the move does meet the criteria set out in section 55(2)(d) EAPWDR that her shelter could would be significantly reduced, which is conceded by the ministry, and that City B should be considered as being in a municipality adjacent to City A. The appellant argued a legal definition found on legal-dictionary.thefreedictionary.com site support the appellant's position and defines "adjacent" as "that object or parcels of land are not widely separated, though perhaps they are not actually touching; but adjoining implies that they are united so closely that no other object comes between them".

The panel finds the evidence is that the appellant acknowledged she does not meet any of the criteria in section 55(2)(a) to (e) EAPWDR except that stated in section 55(2)(d) – that the move was within a municipality or unincorporated area or to an adjacent municipality and the move would significantly reduce her shelter costs. The panel finds the appellant is relying on the legal definition that states adjacent means "...the parcels of land are not widely separated..." The panel finds the definition provided by the appellant does not support the appellant's position when city A and city B are approximately 120 km's apart. The panel finds that city A and city B should not be considered as adjacent municipalities.

The panel finds the ministry was reasonable in finding the appellant's shelter costs would be significantly reduced if she moved to city B but the move was not within a municipality or unincorporated area or to an adjacent municipality as legislated in section 55(2)(d) EAPWDR. The panel finds the ministry's decision to deny the appellant a moving supplement was reasonable.

The panel finds that the ministry's reconsideration decision is a reasonable application of the applicable enactment in the circumstances of the person appealing the decision and confirms the decision pursuant to section 24(1)(b) and 24(2)(a) of the Employment and Assistance Act.