

PART C – Decision under Appeal

The decision under appeal is the reasonableness of the Ministry's reconsideration decision dated December 4, 2012, finding the Appellant ineligible for a moving supplement because he did not meet the legislative criteria set out in section 57 of the Employment and Assistance Regulation.

PART D – Relevant Legislation

The relevant legislation is the Employment and Assistance Act (EAA) section 4 and the Employment and Assistance Regulation (EAR) section 57

PART E – Summary of Facts

The Appellant was at the relevant times in receipt of income assistance. The Appellant moved some time around the beginning of October 2012. At the time of his move, the Appellant was in the hospital undergoing serious surgery.

The Appellant stated at the appeal hearing (for the first time) that the reason for his move was that his current rental accommodation had been sold in August and his new landlord had informed him that he would need to move. The Appellant originally intended to move to another province to be near his daughter. He changed his mind, however, when he learned that he had a serious medical condition and decided instead to move to another location in a municipality which is not adjacent to the municipality in which he was living to be close to the hospital at which he was being treated.

As the Appellant was in the hospital around the time of his move, he did not have the opportunity to contact the Ministry regarding how he should organize his move. Instead he spoke to a social worker in the hospital. The Appellant's testimony was that this social worker told him that he should simply arrange for the move and the Ministry would pay for it after the fact.

The Appellant followed this advice, arranging for the least expensive movers he could find, and, when the movers asked him for payment following the move, he directed them to the Ministry. The Ministry refused to pay and the movers came to the Appellant's house demanding payment. The Appellant states that he gave them certain items such as his television in payment.

As a result of this move, the Appellant's rental costs increased from \$380/month to \$475/month.

The Appellant subsequently submitted a request for reconsideration asking that the Ministry provide him with a cheque for the amount of the move.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's reconsideration decision dated December 4, 2012 to deny the Appellant a moving supplement because he did not meet the legislative criteria.

The relevant legislation is the Employment and Assistance Act (EAA) section 4 and the Employment and Assistance Regulation (EAR) section 57:

Income assistance and supplements

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.

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.

As a preliminary matter the panel considered whether the evidence provided by the Appellant for the first time at the appeal hearing that he was forced to move because his rental property was sold to a new owner is admissible in accordance with s. 22(4) of the EAA. Under that section, the panel may only admit evidence that: (a) was before the Ministry at the time of the reconsideration decision, or (b) is in support of that evidence. In this case neither criteria is met as this evidence was not before the Ministry at the time of the reconsideration decision and is not in support of the evidence that was, but rather is entirely new and unconnected to that evidence. The panel therefore decided that this new evidence is not admissible.

Section 4 of the EAA requires that a person be in receipt of income assistance in order to qualify for a supplement such as the moving supplement. The Appellant was in receipt of income assistance at the relevant times.

Section 57 of the EAR sets out a series of criteria which an applicant for a moving supplement must meet in order to qualify for that supplement. The Ministry's position is that the Appellant's move does not meet any of the stated criteria such that he qualifies for a moving supplement.

These criteria are:

1. S. 3(a): the applicant cannot pay for the move (s. 3(a)),
2. S. 3(b): the applicant receives Ministry approval prior to the move (s. 3(b)), and
3. S. 2 (a) anywhere in Canada if the move is to start employment,
 - (b) another province or country to improve living conditions'
 - (c) within a municipality or to an adjacent municipality if notice to vacate has been given,
 - (d) within a municipality or to an adjacent municipality if rental costs would be reduced, or
 - (e) to another area in British Columbia to avoid an imminent threat to physical safety.

(1) The Ministry did not rely on s. 3(a), so the panel did not consider this criterion.

(2) As described above, the Appellant did not apply for or receive pre-approval for his move from the Ministry. He did not do this because he was in the hospital at the relevant time and took the (incorrect) advice of a hospital social worker. Notwithstanding this unfortunate advice, the panel finds that the Appellant did not receive the Ministry's pre-approval for this move as required by the legislation.

(3) The Appellant was not moving to start employment, moving to another province or country or moving within or to an adjacent municipality. The Appellant did state at the hearing that he considered that as his move was to be closer to the hospital at which he is receiving treatment for a serious medical condition that the panel should consider that his move was to avoid an imminent threat to his physical safety. The panel cannot agree with this argument. The terms of the legislated criteria in this case are quite strict: in this case the panel cannot find that the threat to the Appellant was "imminent" as it is an ongoing health issue, nor that it was to his physical "safety", as that word implies some kind of danger rather than an ongoing health issue.

As the Appellant has not met the legislated criteria in order to qualify for a moving supplement, the panel finds that the Ministry's determination that the Appellant was not eligible to receive a moving supplement was a reasonable application of the applicable legislation.

Accordingly, the Panel confirms the Ministry's decision.