

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development's (the ministry's) reconsideration decision of December 19, 2012 in which the ministry denied the appellant a moving supplement because the ministry determined that the criteria set out in the Employment and Assistance for Persons with Disabilities Regulation, Section (55)(2)(a-f) and Section 55(3) had not been met.

**PART D – Relevant Legislation**

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

## PART E – Summary of Facts

The appellant was not in attendance at the oral teleconference hearing. After confirming that the appellant was notified, the hearing proceeded under EAR Section 86 (b).

The evidence includes:

- The ministry's reconsideration decision of December 19, 2012, which states that the appellant, who has no dependents on his file, requested a moving supplement on November 23, 2012.
- The appellant's Reason for Request for Reconsideration, dated December 5, 2012 in which the appellant states that he had to move from his residence in BC city "B" because his roommate moved out and he could not afford to pay the entire rent of \$800. He states that because he could not find an affordable place to rent locally in "B," he moved to BC city "A" into a residence he could afford. He states that to support himself (during the transition period) he took out a payday loan, used his support money and got a loan from a friend. He used his December support to pay off the payday loan and now has no money to support himself. He also states that the complex where he lived in "B" was "full of drug ad[d]icts and thieves that also made it uncomfortable and unsafe for me as well." He states that he has been trying to get back into the work force again and there are better job opportunities where he currently lives than in "B."
- A letter to the ministry with his request for a moving supplement on November 23, 2012 in which the appellant provides 3 estimates, the lowest of which is \$325, for moving locally from "B" to an unincorporated community within the same municipality. In the letter, the appellants states that his move from "B" to "A" actually cost him over \$600.
- The appellant's Shelter Information form, dated October 7, 2012 for his current address in "A." The form indicates that his start date was November, 1, 2012, the total monthly rent is \$725 and the appellant is sharing the rent with one other adult.
- The appellant's Shelter Information form, dated August 7, 2012 for his previous address in "B." The form indicates that his start date was September 1, 2012, the total monthly rent was \$800 and the appellant was sharing the rent with one other adult.

The following information came forward after the reconsideration decision:

1. A late submission from the appellant dated January 11, 2013, received at the Employment and Assistance Appeal Tribunal and accepted by the panel chair on January 15. In his submission the appellant repeats his earlier statements that he had to move from his residence in BC city "B" because he could not afford to pay the \$800 rent on his own. He states that he "had secured employment" in BC city "A" before he moved and that he "supplied confirmation of this to the ministry." He states, as he did in his Reasons for Appeal (see below) that "it was the ministry's fault" that he was not employed by the company in "A" and he adds that "they [the ministry] should now be accountable for it."
2. With the late submission above the appellant included a copy of an e-mail dated Sunday, September 30, 2012. The subject of the e-mail is "Re Job on Craigslist." The e-mail is from an address that includes a single word identifier that is from the name of a company in BC city "A" that

the appellant states is the company that offered to hire him. The panel notes that the full name of the company the appellant named is not included in the e-mail address.

The e-mail states:

"Yes we would be able to wait until the end of October to put you to work. Wages would depend on your experience and references etc. After a two week period we would be able to decide on your starting date."

The e-mail ends with "See you tomorrow afternoon," followed by a name. The panel notes that the company status or role of the person whose name appears at the end of the e-mail is not included in the e-mail, and a copy of the sender's signature is not included either.

3. At the hearing, January 18, 2013, in response to a question from the panel, the ministry representative checked back through the file on the appellant and determined that the e-mail above (see point 2) was received by the ministry on October 26, 2012. The panel notes that the ministry representative was not asked to check the file by the panel but chose to do so in response to the panel's question.

4. The appellant's Reasons for Appeal, dated December 27, 2012 in which the appellant again explains that he moved from his residence in "B" because his room mate moved out and the appellant could not afford to pay the whole \$800 monthly rent by himself. He states, repeating some of the information from his Reason for Request for Reconsideration, that the complex where he lived in city "B" was "full of thieves, drug dealers and ad[d]icts." He also states, repeating information in his Reason for Request for Reconsideration that he "had secured employment" with a company in "A" and states that he was not employed by the company "as a result of the ministry calling [the company] on numerous occasions to confirm that I did indeed have employment with [the company]." He states that he is "in the process of getting employment" with another company but first needs certification that requires high school upgrading, which he plans to begin in January, 2013.

The panel found that these items (1-4 above) contained information in support of the information and records that were before the minister when the decision being appealed was made; and therefore the panel determined that the items were admissible as evidence in accordance with the Employment and Assistance Act (EAA), Section 22 (4).

**PART F – Reasons for Panel Decision**

The issue under appeal is whether the ministry's decision denying the appellant a moving supplement was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence, given that the supplement was denied because the ministry determined that the criteria set out in the Employment and Assistance for Persons with Disabilities Regulation Section (55)(2)(a-f) and Section 55(3) had not been met.

**Employment and Assistance for Persons with Disabilities Regulation****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.

[am. B.C. Reg. 275/2004, s. 2.]

With respect to EAPWDR, Section 55(2)(a) the appellant's position is that he had notified the ministry that he had secured employment with a firm in BC city "A" but the employer withdrew its offer of employment because the ministry called the employer on numerous occasions to confirm the offer.

In response to a question from the panel, the ministry representative stated that with respect to confirming employment in accordance with EAPWDR, Section 55(2)(a), as a minimum requirement, the ministry expects documents from an employer to contain the employer's letterhead and be signed by a person authorized by the employer to offer work.

The panel finds that the evidence shows the ministry received from the appellant on October 26, 2012, a copy of an e-mail from a person at an e-mail address that includes a single word identifier that is from the name of a company in BC city "A" that the appellant states is the company that offered to hire him. The full company name itself is not in the e-mail, either in the address or in a heading. The panel also finds the evidence shows that the company status or role of the person whose name appears at the end of the e-mail is not included in the e-mail and a copy of the sender's signature is not included either. As well, the evidence of the appellant is that the employer withdrew his job offer. Given this evidence, the panel finds that the decision of the ministry that the conditions of EAPWDR, Section 55(2)(a) have not been met is reasonable. The panel notes that there is no evidence to support the appellant's statement that the employer withdrew his job offer because of inquiries the ministry made of the employer.

With respect to EAPWDR, Section 55(2)(c) the ministry's position is that this condition has not been met. The panel finds there is no evidence to indicate it has been met and therefore that the ministry's decision is reasonable.

With respect to EAPWDR, Section 55(2)(d) the ministry's position is that the provision has not been met because BC cities "A" and "B" are not adjacent municipalities or unincorporated areas. The appellant's position is that his shelter costs were significantly reduced because of the move. Had he stayed in his residence in BC city "B" he would have had to pay the full rent of \$800 but his share of the rent for the residence in BC city "A" was significantly less: \$362.50. The appellant states that he should be at least be reimbursed for the cost of a move to an adjacent unincorporated area, an estimated \$350.00, though his actual move was to BC city "A." The panel finds that EAPWDR, Section 55(2)(d) does not provide for the reimbursement of moving costs other than those that were incurred in an actual move. As the evidence shows that the appellant moved from BC city "B" to BC city "A" and that BC cities "A" and "B" are not adjacent municipalities or unincorporated areas, the panel finds that the ministry's decision was reasonable with respect to EAPWDR, Section 55(2)(d).

With respect to EAPWDR, Section 55(3)(b), the panel notes that the crucial issue in determining the reasonableness of the ministry's decision is whether the appellant received the minister's approval before incurring moving costs. The evidence shows that in a letter received by the ministry on November 23, 2012, the appellant asked the ministry to reimburse him for the cost of a local move:

"I paid for this move [from BC city "B" to BC city "A"] myself but the ministry told me they would only pay for me to move locally. I am in debt now from the move [from BC city "B" to BC city "A"] and want the ministry to reimburse me for the cost of a local move."

The panel finds that the evidence shows that the appellant applied to the minister on November 23, 2012 for reimbursement of travel costs. Though the appellant states that he applied to the minister before he moved, there is no evidence that he did so. The evidence shows that before he moved the appellant submitted a document to the ministry he believed to be an offer of work from an employer. The panel finds, however, that this document is not sufficient to prove that the appellant applied for reimbursement of travel costs before he moved. The panel also notes that in maintaining that he applied for reimbursement of travel costs before moving, the appellant also states that he was denied approval by the ministry at that time. The panel therefore finds that with respect to EAPWDR, Section 55(3)(b) the ministry's decision is reasonable.

Given that the panel finds the appellant did not meet any of the applicable provisions under EAPWDR, Section 55(2) and the provision under EAPWDR, Section 55(3)(b), the panel finds that the decision of the ministry to deny the appellant's request for a moving allowance is reasonably supported by the evidence, and the panel confirms the ministry's decision.