

### PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated October 29, 2012 which held that the appellant did not meet the statutory criterion of Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 55(3) to qualify for a moving supplement to move her personal belongings within a municipality in B.C. because she had not received the minister's approval before incurring the costs of moving.

Pursuant to section 55(2)(d) of the EAPWDR, the ministry determined that the appellant did move within a municipality and that her shelter costs would be significantly reduced as a result of the move.

### PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) section 55.

## PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration included:

- The appellant has Persons with Disabilities status.
- A paid receipt dated September 12, 2012 from a moving company for \$436.80.
- A letter of support dated September 17, 2012 from a friend and former land lady who indicates that the appellant is trying to make the best of her relocation to a small town atmosphere with amenities within walking distance.
- A letter of support dated September 18, 2012 from a registered clinical counselor who indicates that the appellant has been waiting for suitable housing for a long time and that she has Post Traumatic Stress Disorder (PTSD) and is easily triggered to become anxious, fearful and distressed by sudden noises, excessive noise, threatening behaviour and many other triggering events. The PTSD has made it difficult for the appellant to share housing with someone else which has been suggested by well meaning ministry personnel who do not understand what PTSD does to people. The counselor advises that the appellant has been frequently duped by building managers and less than reputable land lords and felt that she needed to do her homework about this building before committing herself. When the unit came available, the appellant did not have the time or physical ability to present herself to the ministry offices to request moving expenses. It is requested that the appellant's move be supported by paying her moving expenses so that she can finally settle into some place for a period of time and recover her mental, physical and emotional health. It is added that the appellant was once a highly productive working woman who has fallen on incredibly difficult times.
- A letter dated October 24, 2012 from a retired missionary who indicates that she has loaned \$300 for moving costs to the appellant and needs the money returned.
- An undated support letter from the appellant's friend and retired councilor/social worker who indicates that she has known the appellant for 19 years and admires the appellant for her warm-heartedness, kindness and intellect. She adds that the appellant has been rejected by her son, had 2 unsuitable marriages and experienced a break-in and violation of her and her home in another community leaving her with PTSD.
- The Request for Reconsideration dated October 9, 2012 with a letter from the appellant who requests moving costs to subsidized housing and explains that she had a very short time frame/notice and wasn't even sure that she could get a mover at that time. The appellant adds that she had to borrow from a retired missionary and must pay her back as soon as possible. The appellant states that she made every effort to take accommodation within her means and did not have time to go through the usual channels of 3 quotes and 7-10 working days to get approval.

At the hearing, the appellant testified that she had been on a waiting list for over 7 years for subsidized housing and could not wait for 10 days to have ministry approval at the risk of losing the lodging and going to the bottom of the waiting list. The appellant reported that she had received a call about the vacancy from the landlord and made arrangements to see the suite the following day. Knowing that the landlord would not hold the suite for her, she took it. The appellant stated that she had contacted 4 moving companies and received 2 estimates. She testified that she did not have to give notice at her former lodging because the house was being sold. The appellant moved in on September 10, 2012. The appellant did not remember the date that she had first seen the suite other than it was at the beginning of the month. Although the appellant testified that she had contacted the ministry; she knew and the ministry confirmed that a call was not logged. The appellant indicated that she was anxious to move in and was focused on getting moved. The appellant reported that she has now lost the friend who had lent her \$300 for the move because she was unable to repay the loan.

At the hearing, the registered clinical counselor who had written the letter of support dated September 18, 2012 was contacted by telephone at the request of the appellant. She reported that the appellant's decision making process makes sense because of her PTSD. In response to a question, she added that the appellant's physical mobility was compromised because her car was not functioning.

The appellant's testimony is admitted by the panel under section 22(4) of the Employment and Assistance Act as evidence in support of the information and records that were before the ministry when the reconsideration decision was made.

At the hearing the ministry stood by their record. In response to a question by the panel, the ministry indicated that their policy to meet a service request is between 3-5 business days or the next day when urgent. Also in an urgent case, the client can ask to speak to a supervisor. Additionally, the ministry testified that although not indicated in the legislation, their policy is to request 3 quotes from movers. The ministry also confirmed that they have no discretion in this particular piece of legislation.

## PART F – Reasons for Panel Decision

At issue is the reasonableness of the ministry's decision to deny the appellant a moving supplement on the basis that she failed to meet the legislative criterion under section 55(3) of the EAPWDR because she had not received the minister's approval before incurring the moving costs.

The ministry had determined that the appellant did move within a municipality and that her shelter costs would be significantly reduced as a result of the move pursuant to section 55(2)(d) of the EAPWDR.

The following sections of the EAPWDR apply to this appeal:

### 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 argues that after more than 7 years on a waiting list for subsidized housing; she was anxious and only focused on the move. She believed that she didn't have enough time to go through the usual channels of 3 quotes and 7-10 business days to get approval from the ministry.

The ministry argues the appellant undertook the move without prior approval from the ministry. The ministry also determined that the appellant's request for a moving supplement meets the legislative criteria as the appellant moved within the same municipality and her shelter cost has been significantly reduced by \$480 per month however, although the appellant did not have the resources to cover the cost of the moving as she had to borrow the money from a friend, her move is complete and she did not receive prior approval as required under the legislation.

The panel finds based on the evidence that the appellant undertook her move on September 12, 2012 and sought reimbursement by telephone on September 17, 2012 and that while the appellant's move may have resulted in a significant reduction to the appellant's shelter cost, the overriding fact is the appellant's failure to obtain the minister's approval before incurring her moving costs. The panel notes that the appellant clearly met the other legislative criteria however; as indicated by the ministry, there is no discretion permitted in this particular piece of legislation. Therefore, the panel finds that the ministry reasonably determined that the legislative criterion under section 55(3)(b) of the EAPWDR for a moving supplement has not been met and thus, confirms the ministry's reconsideration decision.