

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of November 22, 2012, which denied the appellant's request for a supplement for moving fees under Section 4 of the *Employment and Assistance Act (EAA)* and Section 57 of the *Employment and Assistance Regulation (EAR)*. The ministry concluded that the appellant does not meet the requirements set out in Section 57 of the EAR. The ministry determined that the appellant did not move to another city to avoid imminent threat to her physical safety. The ministry further concluded that the appellant had resources available to cover the cost of moving and completed her move and paid the full cost of moving even after her request for moving supplement was denied.

### PART D – Relevant Legislation

*Employment and Assistance Act (EAA)*, section 4,  
*Employment and Assistance Regulation (EAR)*, section 57

## PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- A physician note dated July 12, 2012 referring the appellant to another physician because she was leaving the area of her residency. The physician noted that the patient has a long history of personality disorder and back pain. The appellant made a note on this referral stating that she disagrees with the personality disorder diagnosis and that the physician left out her other medical conditions, spinal cord injury, hips, neck, left leg and knees, nerve and tissue damage.
- The appellant's letter to the ministry dated October 4, 2012. The appellant stated that the moving day is October 25, 2012 and that it is extremely difficult for her to take the bus and carry heavy items for a long period of time. The appellant requested assistance as she is physically unable to move.
- Three estimates from moving companies received by the ministry on October 5, 2012;
- The appellant's handwritten letter dated October 18, 2012. The appellant stated that she moved to better herself and others around her. She said that she requested moving expenses on October 15, 2012 and provided all the required documents to the ministry including a physician note and gas expenses for moving by a truck.
- An undated note written by the appellant stating "from Claudette on Friday October 12, 2012, fuel required for moving with U-Haul trailer \$100.00. They will be picking up the trailer"
- An estimate for move stating the cost for 3 days flat truck rental in the amount of \$800 + tax.
- Ministry's decision denying the appellant's request for moving supplement dated October 18, 2012;
- A copy of a letter from the ministry to the appellant dated October 18, 2012. The ministry informed the appellant that her income assistance cheque issue day is October 24, 2012 and the cheque will be held at the office until the appellant contact the ministry.
- A copy of a letter from the ministry to the appellant dated October 23, 2012. The ministry in response to the appellant's request advised her that her request for a moving supplement had been denied. The ministry said the appellant could use the security deposit that was issued to her for the new rental to pay for her moving expenses.
- A copy of a one-way truck rental dated October 25, 2012. The sister of the appellant is noted as the customer who rented the truck and paid \$174.84.
- Two copies of gas receipts dated October 24 and October 26, 2012
- A copy of Notice to Move signed by the appellant on October 31, 2012. The appellant stated that her reasons to move to another city were "I feel because of my abilities and disabilities, also being on social services. A few examples: entering without permission; package sent to Human Rights Commission , April 30, 2011; set dog attack May 19, 2012". The appellant said that "now I have the opportunity to dust my feet off from this place..... went to social services in order to attain assistance for the move and the..... just desire to be able to move on without causing more injury to myself physically. To get better".
- A copy of a statement to the RCMP dated November 2, 2012. The appellant thanked the two officers who responded to her 911 call prior to her move to the current city. The appellant said that someone had entered her residence without her permission and on October 6, 2012 someone had dumped what turned out to be motor oil at the side of her place and she was afraid that might have been flammable. She further said that a woman at the police station told her to ask her landlord to install security cameras but she said she wouldn't do that because the landlord would know that she is the one who had complained.

- Request for Reconsideration signed by the appellant on November 7, 2012. The appellant stated that she meets the eligibility requirements set out in the EAR. The appellant submitted that she left her place of residence due to imminent threat to her physical safety. She said that she lived in her last place of residence from February 1, 2008 to October 31, 2012. The appellant said that on May 19, 2012 her landlord had her dog attack the appellant. The dog was unsuccessful but the emotional turmoil from this event still affects the appellant. Furthermore, the appellant submitted that on May 29, 2012 she found her neighbour in her back yard, she had also had a history with finding him peeping at her from outside her bedroom window. This neighbour had previously abused and harassed her. The appellant said that on June 25, 2012 someone broke into her place of residence while she was in the shower. The appellant reported that many items were taken from her residence and on February 9, 2012 she was assaulted by another woman when trying to retrieve her mail out of the mailbox. The appellant said that these situations affected her emotionally to the point that she no longer felt safe in her place and had to flee.
- A copy of a letter from the appellant to a friend dated November 13, 2012;

The following documents are in the Appeal record regarding the appellant's move, medical and living conditions from 2002 to 2011:

- An undated copy of an Access Pro Bono Client Advice Form;
- A copy of a move out notice from 2002 with few other documents regarding the notice;
- Some medical document from 2007;
- A copy of a letter from Canadian Mental Health Association to the appellant dated May 25, 2009;
- A copy of a Condition Inspection Report dated November 2010;
- A copy of a Residential Tenancy Agreement from 2010;
- A copy of a letter from a lawyer to the appellant dated July 11, 2012, forwarding the Pro Bono Brief for a Society clinic in April 2011;
- A copy of the appellant's complaint to the Human Rights Commission dated April 30, 2011;

Information subsequently put before the appeal panel included the following:

- The Notice of Appeal dated December 2, 2012.
- Copies of documents regarding the appellant's application for Persons with Disabilities designation and the appeal package from 2011.

In her Notice of Appeal, the appellant stated that she disagrees with the decision of the ministry because "I did all that the ministry required of me". She said that she was forced to leave her home and reported the incidents to police.

Prior to the hearing of this appeal, the appellant submitted a book of documents which, in large measure, replicated the documents already contained in the appeal record sent by the ministry but also included the appellant's hand written notes on many of the documents replicating her submissions in request for reconsideration.

At the hearing, the appellant submitted a book of documents, replicated the documents already submitted. However, the appellant made a few notes on 3 pages of the documents which are the

same as her submissions in the request for reconsideration and her oral evidence at the hearing. The appellant submitted that she had a very difficult time dealing with the advocate and the supervisor of the advocacy agency.

The ministry reviewed the documents and stated that she does not have an objection in admitting the evidence; however, the ministry submitted that the documents are not relevant to this appeal. Furthermore the ministry said that many of the documents are included in the appeal record.

The panel accepted the documents relevant to the move as being in support of the information before the ministry pursuant to Section 22(4) of the EAA and therefore admitted the appellant's submissions included in the Notice of Appeal and evidence submitted at the hearing into evidence.

At the hearing, the appellant stated that she disagrees with the ministry's decision. The appellant, in response to the ministry's question said that she went to the ministry's office requesting to speak with the supervisor unsuccessfully. She further stated that the ministry has all the information regarding her living situation and that her physical and mental health was in danger and "they didn't do anything about it". The appellant said that she needed an advocate to protect her from the government and police. The appellant said that she called the police when she was injured but they didn't do anything at all. The appellant said that she did not provide detail of her police reports to the ministry. The appellant agreed with the ministry that she was provided information to contact an advocate and said that she contacted an advocate but "it did not go well". The appellant said that she tried to speak with the advocate's supervisor but the supervisor told her that she is mentally ill and did not assist her.

The panel asked the appellant whether she was asking to adjourn the hearing in order for her to have an advocate present; the appellant said no, she did not want to adjourn the hearing. The appellant said "keep your money because the secrets are out". She further said that all she wants is to live a peaceful life in the new city and that the ministry treats her properly.

The ministry relies on the reconsideration decision and submitted that the appellant moved after the ministry denied her request for the moving supplement. The ministry stated that there was no information before the ministry that the appellant has moved due to imminent danger to her physical health and the information provided by the appellant is for incidents that occurred few years prior to the move. The ministry further submitted that the appellant had the resources available to her to complete the move without a financial requirement. The ministry said that the appellant did not provide any information that she borrowed money to complete the move.

The appellant said that she disagrees with the ministry because her sister and her brother-in-law assisted her with the move and paid for the U-Haul and the gas. She said that she did not have any resources to pay for the move.

The appellant agreed that she did not have any documents from her sister indicating that she owed her money but she said that the money for her move was paid by her sister. The appellant again submitted that she needed an advocate to protect her from the government. Furthermore the appellant told the ministry "keep their money and in the future treat her right".

The appellant submitted that she fled the city after being assaulted and someone went to her home without her permission. The appellant said that on October 25, 2012 she tried to flee unsuccessfully.

The appellant further submitted that she tried to give information to the ministry but "everything I told them came back to me by the landlord and others". She said she tried to give the police file information to the ministry but she was not able to speak with the supervisor. She said she went to the ministry's office and asked one of the staff and was told that the supervisor was not available.

The ministry submitted that there is a note on file indicating that the staff asked for contact information in order for the supervisor to contact the appellant.

The panel notes that there is a receipt of payment for a rental truck indicating the appellant's sister as the customer and makes the following findings of fact:

- The appellant moved after receiving the ministry's decision denying her request for a moving supplement;
- The fee for moving truck was paid by the appellant's sister.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant's request for a supplement for moving fees pursuant to Section 55 of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant did not move to another city to avoid imminent threat to her physical safety and that she had resources available to her to cover the cost of moving and she did not obtain approval of the ministry prior to incurring the cost.

### EAA:

#### 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.

### EAR:

#### 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.

The ministry's position is that the appellant is not eligible for moving expenses as she failed to receive approval before incurring the costs of moving and that she had resources available to her to cover the cost of moving pursuant to section 55(3) of the EAPWDR. The ministry further stated that there was no information before the ministry indicating that the appellant moved to avoid imminent danger to her physical health.

The appellant's position is that she fled her last residence as she did not feel safe. No one assisted her when she was injured and when she contacted the ministry.

Section 57(1) of the EAR includes a definition of the costs that are provided for in the section, namely "living cost", which is the cost of accommodation and meals, "moving cost" being the cost of moving a family unit and its personal effects from one place to another and "transportation cost" means the cost of travelling from one place to another.

Section 57 (2) (e) of the EAR states that the minister may provide a supplement to or for a family unit for moving costs 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 panel notes that the appellant moved to another area in British Columbia but the evidence submitted by the appellant including handwritten statements to a police department fall short of establishing the appellant moved to avoid an imminent threat to her physical safety. The appellant submitted a few police file numbers but the only document from the police agency is dated August 12, 2002 advising the appellant that there was a complaint against her pushing her neighbor. The panel notes that no charges were laid on this matter against the appellant. The panel finds that the ministry's decision concluding that there is insufficient information that the appellant moved to avoid imminent danger to her physical safety was a reasonable decision based on the evidence before the ministry.

Section 57(3)(a) provides that a family unit is eligible for a supplement under this section only if there are no resources available to the family unit to cover the costs for which the supplement may be provided. The panel accepts the submission of the appellant stating that her sister paid for her move as she did not have any resources to pay for it and that the appellant submitted the evidence indicating that her sister paid the costs of her move. Accordingly, the panel finds that the ministry's conclusion that the appellant had the resources available to her to complete the move was not reasonably supported by the evidence.

Section 57(3)(b) of the EAR states that a family unit is eligible for a supplement only if a recipient in the family unit receives the ministry's approval before incurring those costs. The panel finds that the appellant moved after her request for supplement for move was denied. Accordingly, the panel finds that the ministry's decision that the appellant moved and did not seek or receive prior approval from the ministry before incurring the costs was a reasonable decision.

The panel notes that it does not have jurisdiction to address the appellant's complaint regarding the advocacy agency. Furthermore, the appellant submitted documents regarding her application for PWD designation. The panel notes that it does not have jurisdiction to address the appellant's request regarding her PWD application. This request was not advanced to the ministry and therefore

does not properly form part of this appeal. The panel's jurisdiction is limited to reviewing the reasonableness of the reconsideration decision.

The panel determines that the ministry's reconsideration decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the reconsideration decision under s. 24(2)(a) of the *Employment and Assistance Act*.