

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development (the ministry) dated 04 March 2013 that denied the appellant's request under section 55 of the Employment and Assistance for Persons with Disabilities Regulation for a moving supplement to cover the costs of moving her personal items. The ministry held that the information provided did not establish that the appellant's move was to a prescribed place for a prescribed purpose as set out in subsection (2) of section 55. Further, the ministry found that the appellant did not provide any information that would establish that there were no resources available to her to cover the costs of the move as required under subsection (3)(a), nor had the appellant provided any information that would enable the ministry to determine that the costs would be for the least expensive appropriate mode of moving as required under subsection (4)(a).

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 reconsideration consisted of the following:

1. From the ministry's files:
 - The appellant is a single recipient of disability assistance.
 - On 25 April 2012 she advised the ministry she was attending an addiction treatment centre.
 - In June 2012, while the appellant was in treatment, a social worker advocated on her behalf for assistance with a moving supplement to go from City A to City C. The ministry was advised the appellant had been living at no fixed address and had no belongings to take with her
 - In June 2012, the ministry advised the appellant, via the social worker, to submit moving quotes and a list of items she needed for starting up. The record shows that no such quote or list of items was submitted.
 - The appellant's disability assistance file was transferred from City A to City B in September 2013.
2. A letter from the appellant dated 23 October 2012 from a City B address. The appellant writes: "I am writing to request moving expenses. I have moved from [City A] to [City B] in July, 2012. I lost my housing back in Dec 2011 and was forced to live in a shelter until I got into treatment for drug abuse. I got into treatment in April 2012 and graduated in July. I was unable to find affordable housing within the \$375 that I have for shelter. In order for me to remain clean and sober and find employment I need a safe place to live. I never felt safe in the shelter and would easily slip back into substance abuse. I was being forced to seek shelters, all of them are full, or remain homeless. A friend of mine offered me a room in her apartment in [City B] and I have since been here looking for employment. Rent in [City B] is a little more reasonable and there are more opportunities for employment. I have all my bedding, kitchen supplies, and some small furniture that I need to move over from [City A]. Therefore, I am seeking assistance to move my belongings to [City B]..."
3. A "To whom it may concern" letter from the appellant's friend dated 19 September 2012 from the same City B address stating that the appellant is a resident in their shared accommodations and her rent will be \$375 monthly, with the appellant currently in arrears for rent for September 2012.
4. The appellant's request for reconsideration dated 15 February 2013 referring to the above letter from the appellant's friend.

The appellant filed her notice of appeal on 08 March 2013. She states that she believes she gave as much notice as needed prior to a full-time permanent home in City B.

At the hearing, the appellant, in her opening presentation and in answer to questions, stated:

- She was unaware that a social worker had been advocating for moving expenses for her to move from City A to City C. As such, she was unaware the social worker had indicated that she had no belongings, and was unaware of the ministry's response indicating the need for quotes for moving costs.
- She had lived in shelters in City A for two nights before accepting her friend's offer of accommodations and relocated to City B. After arriving at the friend's apartment, she

discovered the friend was a drug user.

- The belongings consisted of 4 bags of clothing, 6 boxes of books, kitchen equipment, a dresser, a desk, and a bed. She had put these in storage with friends when she lost her housing in December 2011.
- Getting assistance from her family and friends was not possible because her family lived in other parts of the province/country and her nearby friends didn't have a truck. She had exhausted her ability to borrow from either family or friends during her addiction.
- She had contacted various moving companies and determined the least expensive way was to rent a truck and do the move herself.
- She has just recently started a part-time job.

The ministry representative stated that the ministry was not aware that the appellant did not know the social worker was advocating on her behalf. The ministry was not aware that the person with whom she was living when she made her application for the supplement was a drug user. The ministry stood by its decision at reconsideration. The ministry's argument is described in Part F below.

The panel notes that in response to the June 2012 request, the ministry advised the appellant, via the social worker, to provide quotes and a list of items she required for stating up but that the appellant, as she testified, did not receive that information. Accordingly, the panel finds that the June 2012 request through a social worker is not relevant to this appeal.

With the exception noted below, the panel finds the testimony of the appellant at the hearing is in support of information that was before the ministry at reconsideration. The appellant's testimony clarifies the background to her request and the amount of personal items to move. The panel therefore admits this new information as evidence pursuant to section 22(4) of the Employment and Assistance Act. The panel cannot accept as evidence the appellant's testimony that the friend with whom she lived in City B on a temporary basis was a drug-user, as no argument or evidence the risk this may have posed to the appellant was before the ministry at the time of the reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision that denied the appellant's request under section 55 of the EAPWDR for a moving supplement to cover the costs of moving her personal items was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is from the EAPWDR:

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.

Positions of the parties

At the hearing, the ministry explained that, in assessing the request for a moving supplement, it first reviews the request to determine if it meets one of the "moving to/for the purpose of" criteria set out in section 55(2) of the EAPWDR, and then only if the proposed move is to an actual address, with other relevant shelter information provided, including the rent. Only after it is satisfied that the move to the specified address meets one of the criteria in section 55(2) does the ministry go to the next step in the approval process and may ask the applicant to obtain moving cost quotes. It is only with estimated costs available that the ministry can review with the applicant whether there are resources available to the applicant to cover the costs under section 55(3)(a) of the EAPWDR and whether the costs are the least expensive mode of moving under section 55(4)(a).

The position of the ministry is that the appellant's request was for "approval in principle," and not one for moving to a specified address. Further, the only criterion under section 55(2) that might have been applicable was "(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." The ministry noted the key words "imminent threat to the physical safety," with "imminent" meaning "immediate" and specific, either to a threat posed by another person (e.g. a stalking situation) or relating to the building (e.g. mould). The ministry was not aware of any danger relating to the appellant's temporary residence in City B from which she made her application, and was not prepared to accept that her use of shelter accommodation in the past represented the "imminent threat to physical safety" contemplated in the legislation. As the appellant's moving supplement request did not relate to moving to the specified address and, in the ministry's view, did not meet one of the section 55(2) criteria, the ministry did not seek further information from the appellant as to moving costs.

The position of the appellant is that she lost her housing back in December 2011 and, except for the time she was in a treatment center, was essentially homeless and relying on shelter accommodation. When she lost her housing, she was able to store her possessions – clothes, books, cooking equipment and some furniture -- with a couple of friends. When she finished her treatment in July, 2012, she decided to accept a friend's offer to share accommodations in City B, where she would feel safer and to get a fresh start, using that as a base to find part-time work and look for permanent accommodation. She made her request for a moving supplement to cover the costs of moving her possessions in storage while she was settled in her temporary accommodation, on the basis that she would need them once in a permanent residence in City B and that this would give the ministry plenty of time to consider her request. She submits that the moving costs are covered under paragraph (e) of section 55(2) because she is moving from a homeless situation, where she relied on shelters and where she never felt safe; going back to them now would also expose her to drug users and drug using, posing the risk of a life-threatening relapse.

Panel findings

Because of the locations of City A and City B (both in BC but not adjacent municipalities), only Section 55(2)(a) or 55(2)(e) could apply in this application. Because the appellant had not found confirmed employment at the time of the application, the panel finds that the ministry reasonably determined that the appellant did not meet the criteria of Section 55(2)(a).

The legislation in section 55(2)(e) requires the move to be made "to avoid an imminent threat to the physical safety" of the applicant. The panel considers it reasonable that the ministry assess "imminent threat" in the context of the circumstances prevailing at the time of the application, including when and where the request was made. The request was made while the appellant was living in shared accommodation in City B. The ministry had no information of any risks posed by this arrangement. The panel finds that, while the appellant had previously been living in a homeless situation and argues she was at risk, the ministry reasonably determined that the evidence did not establish that an imminent threat to her physical safety at the time of her application and therefore that the appellant did not meet any of the criteria under section 55(2) of the EAPWD.

The panel notes that the issue of the appellant failing to provide a quote and a list of items she needed for starting up as a result of a request for a moving supplement made by a third party in June 2012 is not a factor in the reconsideration decision as no further action was made then and a new request was filed with the ministry on 23 October 2012. This new request is the subject of the reconsideration decision that is under appeal. As the ministry had determined that none of the criteria under section 55(2) had been met, the ministry did not seek further information regarding cost quotes and resources available to the appellant to cover the costs. As a result the appellant did not provide such information. Under these circumstances, the panel finds that the ministry reasonably determined that these criteria had not been met.

Based on the foregoing, the panel finds that the ministry's decision to deny the appellant the requested moving supplement was reasonably supported by the evidence. Accordingly, the panel confirms the ministry decision.