

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development (the ministry) dated May 13 2013 denying the appellant's request for reimbursement of moving costs. The ministry found that the appellant satisfied section 55(2)(c) of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR") in that he was forced to move because his rented residential accommodation was sold and a notice to vacate had been given. However, the ministry further determined that the appellant was not eligible for a moving supplement for the following reasons:

- (a) The appellant did not receive the minister's approval prior to incurring the moving costs as required by section 55(3)(b) of the EAPWDR; and
- (b) The ministry was not satisfied that that the moving costs incurred by the appellant were the least expensive mode of moving as required by section 55(4)(a) of the EAPWDR.

### 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 hearing. After confirming that the appellant had been notified of the hearing, the panel proceeded with the hearing under section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the ministry at the time of the reconsideration decision consisted of copies of the following:

1. The appellant's Request for Reconsideration dated May 1, 2013;
2. A letter dated November 29, 2011 from the owner of the property where the appellant previously resided to all tenants indicating that the property had been sold and all tenants must vacate the premises by May 28, 2013;
3. A letter dated April 30, 2012 from the owner of the property where the appellant previously resided to all tenants reminding them of the May 28, 2013 deadline to vacate the premises;
4. A Shelter Information form dated April 8, 2013 and signed by the appellant's new landlord;
5. One completed and one blank rental receipt for the appellant's new premises. The date is not legible on the completed receipt; and
6. A receipt dated March 31, 2013 from a towing company issued to another person in the amount of \$240.00.

The appellant is a single recipient with Persons with Disabilities designation.

In his Request for Reconsideration dated May 1, 2013, the appellant states that he did not know that he had to apply for the moving supplement prior to moving.

In his Notice of Appeal dated May 15, 2013, the appellant references section 55(3)(b) of the EAPWDR and submits that he did not know that he had to apply for the moving supplement before he moved. He states that his only available resource was his STS which he had to borrow and did not receive until April 24, 2013. The appellant further references section 55(4)(a) of the EAPWDR and submits that he called a towing company to assist him with his move in approximately the first week of March 2013 which he ultimately secured for \$240.00.

At the hearing, the ministry submitted no new evidence and relied on the reconsideration decision. The ministry stated that the appellant did not obtain prior approval from the minister prior to moving and did not provide evidence that he had used the least expensive mode of moving and as such he was not eligible to receive a moving supplement.

In response to a question from the panel, the ministry stated that where an applicant seeks prior approval for a moving supplement, the ministry then directs the applicant to provide multiple estimates for the moving costs to ensure that the least expensive mode of moving is used. The ministry went on to state that as the appellant in this case did not seek prior approval, the ministry could not ask for the applicable estimates.

## PART F – Reasons for Panel Decision

The issue on the appeal is whether the Ministry reasonably denied the appellant's request for reimbursement of moving costs. The ministry found that the appellant satisfied section 55(2)(c) of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR") in that he was forced to move because his rented residential accommodation was sold and a notice to vacate was given. However, the ministry further determined that the appellant was not eligible for a moving supplement for the following reasons:

- (c) The appellant did not receive the minister's approval prior to incurring the moving costs as required by section 55(3)(b) of the EAPWDR; and
- (d) The ministry was not satisfied that that the moving costs incurred by the appellant were the least expensive mode of moving as required by section 55(4)(a) of the EAPWDR.

The criteria for eligibility for a moving supplement are set out in section 55 of the EAPWDR as follows:

### 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

ATTACH EXTRA PAGES IF NECESSARY

expensive appropriate living costs.

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

The issuance of a moving supplement to an eligible family unit lies within the discretion of the minister and is subject to conditions that must be met by the applicant.

The family unit must be eligible for disability or hardship assistance and then must satisfy one or more of the conditions as set out in section 55(2)(a)-(e). Further, an applicant must also satisfy the following:

1. There must be no resources available to the family unit to cover the costs for which the supplement pay be provided (section 55(3)(a) EAPWDR);
2. The recipient must receive prior approval from the ministry before incurring the moving costs (section 55(3)(b) EAPWDR); and
3. The supplement may be provided only to assist with the cost of the least expensive appropriate mode of moving or transportation (section 55(4)(a) EAPWDR):

In the present case, the appellant receives disability assistance and the ministry is satisfied that he meets section 55(2)(c) in that he was forced to move because his previously rented residential accommodation was sold and a notice to vacate was given. However, the ministry takes the position that the appellant is not eligible for the moving supplement because he did not receive prior approval from the ministry before incurring the moving costs in issue and because it is not satisfied that the appellant's moving costs were the least expensive appropriate mode of moving.

The appellant takes the position that he did not know that he needed prior approval from the ministry before incurring the moving costs and he maintains that the cost of moving was the least expensive appropriate mode of moving.

### **Prior Approval from the Ministry**

Section 55(3)(b) of the EAPWDR provides that a family unit is eligible for a moving supplement if there are no resources to the family unit to cover the costs for which the supplement may be provided and if a recipient in the family unit receives the minister's approval before incurring those costs.

In this case, there is no evidence that the appellant sought prior approval from the minister before incurring the moving costs for which he seeks reimbursement in the form of a moving supplement. The November 29, 2011 letter from the owner of property where the appellant had previously resided indicates that the appellant was aware that he would have to move some 16 months prior to the actual moving date of March 31, 2013.

Given the mandatory nature of section 55(3)(b) of the EAPWDR, the panel finds that the ministry was reasonable in determining that the appellant did not seek prior approval from the ministry before incurring the moving costs for which the appellant has requested reimbursement in the form of a moving supplement.

### **Least Expensive Appropriate Mode of Moving**

Section 55(4)(a) of the EAPWDR provides that a moving supplement may be provided to assist with the cost of the least expensive appropriate mode of moving or transportation.

As set out above, there is no evidence that the appellant sought approval for the moving supplement prior to moving. In the reconsideration decision, the ministry states that it is not satisfied that the costs incurred by the appellant to move were the least expensive mode of moving and this was clarified at the hearing by the ministry which explained that by not seeking prior approval for his move, the ministry was not given the

opportunity to request that the appellant provide estimates for the cost of moving in order that a proper determination could be made as to the least expensive appropriate mode of moving.

Considering the evidence, the panel finds that the ministry's determination that the appellant's moving costs were not the least expensive appropriate mode of moving was reasonable.

### **Conclusion**

Given the panel's findings above, the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision pursuant to Section 24(2)(a) of the *Employment and Assistance Act*.