

**PART C – Decision under Appeal**

In a reconsideration decision dated 28 March 2013, the Ministry determined the Appellant was not eligible for reimbursement of moving costs as per Section 57 of the Employment and Assistance Regulation because he did not receive prior approval before incurring those costs as required by subsection 3(b).

**PART D – Relevant Legislation**

Employment and Assistance Regulation (EAR) Section 57

## PART E – Summary of Facts

The evidence before the Ministry at the time of the reconsideration decision included:

- A copy of the Appellant's Request for Reconsideration dated March 21, 2013.
- A copy of a moving cost invoice dated February 28, 2013 for \$200 and a receipt for moving costs dated February 28, 2013 for \$180.
- A 10 Day Notice of End Tenancy for Unpaid Rent to the Appellant dated February 6, 2013 for \$900.

In the Reconsideration Decision dated March 28, 2013, the Ministry states the Appellant is a sole recipient of income assistance (IA) with a reopened file with the Ministry in February 2013. It states that on March 13, 2013 the Appellant submitted receipts for his move and requested a reimbursement. The rent at the new location is \$400 less than at the former location. On March 20, 2013 the Ministry informed the Appellant his request was denied and the Appellant stated because he had received a security deposit (from the Ministry) for the new location, he assumed this was some measure of approval by the Ministry for the move.

The Reconsideration Decision acknowledges the Appellant's shelter costs have been significantly reduced, and acknowledges the Appellant did receive approval for a security deposit, however concludes that the Appellant is not eligible for a moving supplement because he did not obtain prior approval as specified in the legislation.

In the Request for Reconsideration, the Appellant states he was not informed that he had to have prior approval for the move. He states his request for a damage deposit was approved and feels "this would basically be some measure of approval". He also notes that his file contains an eviction notice copy.

In the Notice of Appeal, the Appellant states he wasn't informed about the preapproval prerequisite. He says he does not have his own vehicle and money is limited. He states he was evicted from his previous residence and found the current one for half the rent and utilities. He concludes the new place opens up new possibilities for work and is near major bus routes. He also notes he needs to pay the moving bills.

At the hearing the Appellant stated he wasn't aware of the preapproval that is needed to qualify for a moving supplement and that he was told of the possibility of a moving supplement by a ministry representative when he was in the midst of his move. He explained that he didn't want to move, however he had problems with other tenants in the same building as well as with the landlord. He clarified that he moved during the period of February 20 through February 28 and submitted his eviction notice to the Ministry around March 10, 2013. He concluded that he has no funds to pay for his moving costs.

At the hearing the Ministry reiterated its position that the Appellant did not receive prior approval before his move.

## PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to determine the Appellant was not eligible for reimbursement of moving costs as per Section 57 of the Employment and Assistance Regulation. The pertinent legislation in this case is as follows:

**57** (1) *In this section:*

*"moving cost" means the cost of moving a family unit and its personal effects 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:*

*(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;*

(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.*

The Appellant argues the facts that he submitted an eviction notice to the Ministry and that his request for a security deposit was approved gave him the impression that his move had some measure of approval.

The Ministry argues the security deposit supplement and the moving cost supplement are separate and that eligibility for one does not necessitate eligibility for the other, and as the Appellant did not obtain approval for a moving supplement prior to incurring the costs of the move, he is ineligible for the moving supplement.

The Ministry acknowledges the Appellant meets the legislative criteria under EAR, Section 57(2)(d) in that the Appellant's shelter costs are significantly reduced.

The criteria under EAR, Section 57(3) must also be met and the wording (*only if*) gives the Ministry no discretion. The Panel finds, although the Appellant thought "some measure" of approval was implied by his receipt of the supplement for the damage deposit, Section 57(3)(b) of the EAR is very specific in that a moving supplement may be provided only if prior approval for the moving supplement is received. In this case the Appellant moved on or before the end of February, incurred his moving

costs on February 28, 2013 and requested reimbursement of those costs on March 13, 2013, therefore requesting the moving supplement after not prior to incurring the costs for the move.

The Panel finds the Ministry's decision determining the Appellant ineligible for a moving supplement is a reasonable application of the applicable enactment in the circumstances of the Appellant and confirms the decision.