

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry's) reconsideration decision dated September 3, 2013 which denied the appellant's request for a moving supplement to pay for storage costs on the basis that she did not meet the statutory requirements of Schedule A or section 57 of the Employment and Assistance Regulation (EAR).

Specifically, the ministry determined that the appellant :

- did not have shelter costs per Schedule A and her monthly storage cost could not be considered as a shelter allowance;
- does not meet the definition of transient under section 1 and could therefore be considered for a moving supplement if she met the statutory requirements of section 57;
- had not moved anywhere in Canada due to having confirmed employment that would significantly promote the appellant's financial independence as required by section 57(2)(a);
- had not moved to another province or country to improve her living circumstances as required by section 57(2)(b);
- had not moved within or to an adjacent municipality because her accommodation was being sold, demolished or condemned as required by section 57(2)(c);
- had significantly reduced her shelter costs as a result of the move as required by section 57(2)(d) but moved because she was evicted from her previous residence;
- had not moved anywhere in British Columbia to avoid an imminent threat to physical safety as required by section 57(2)(e); and
- had no other resources for moving expenses as required by section 57(3)(a) but had not received the minister's approval before incurring the costs as required by section 57(3)(b).

PART D - Relevant Legislation

Employment and Assistance Regulation (EAR) sections 1 and 57, and Schedule A

PART E – Summary of Facts

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

- 1) The appellant's Request for Reconsideration dated August 22, 2013 in which she states that she is not at the moment receiving the child tax allowance; she has all of her baby stuff in storage and has no way of replacing the items including the bed/crib, dresser, clothing and the rest of her baby items; and the money she receives from the ministry is not enough for the month;
- 2) Invoice from storage company dated August 19, 2013 indicating that the appellant owes \$465.75 for her storage unit. The account is 45 days past due and needs to be paid immediately; and
- 3) Quote from storage company dated January 30, 2013 indicating that the first month's rent for a 10X10 unit is \$266.22 which includes an administration fee of \$18.00 plus tax, and the cost of a lock which is \$17.36. The normal rent for the unit is \$219 per month plus tax.

In her Notice of Appeal the appellant states that she has a two year old son and all the supplies she has for him are in storage. She has no access without paying the amount for renting the storage unit and she does not have the money to replace all of her son's stuff.

The appellant did not attend the hearing. After establishing that the appellant had been notified of the hearing date and time by review of the delivery certificate, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

At the hearing, the ministry summarized its reconsideration decision, stating that they approved the appellant for one month of storage costs in June 2013, for a total of \$266.22. The appellant had been evicted from her residence, was moving in with her mother temporarily and needed to store her belongings until she secured new accommodations. She was approved for one month only as a moving supplement and was expecting to secure a new residence for July 1st. Transients are not eligible for a moving supplement under section 57(2) and as the appellant had a child she was not a transient as defined in section 1 of the regulation. The ministry could therefore consider her for a moving supplement if she met the other criteria. The ministry's policy is to consider storage fees as a moving cost that the ministry may pay when a family's possessions must be stored for a limited period of time. Clients are only eligible to have their storage fees paid if they are eligible for a moving supplement including having no other resources with which to pay the moving expense, as well as pre-approval from the ministry prior to incurring the expense.

Rent at the appellant's previous residence was \$880 per month and she did not have shelter costs since being evicted in June. Therefore, she did not receive a shelter allowance for July, August, and September but continued to receive a \$375.58 support allowance less a \$20 monthly repayment. The ministry was not able to consider the monthly storage costs as a shelter allowance under Schedule A of the regulation because a storage locker is not the appellant's place of residence.

The appellant submitted another request for storage costs on August 19th and the storage company confirmed on that date that the account was now 45 days past due with \$465.75 owing. The appellant indicated that she had all her baby stuff in storage and the monthly support from the ministry is not enough. On review of the appellant's file the ministry confirmed that the appellant was planning to stay at her mother's place for a month, and that she had been couch surfing since and had not secured a new, permanent residence.

At the hearing, the ministry added that there was an eviction notice on file for the appellant's previous residence and that the appellant stated she would have a new place to live by July 1st. The appellant submitted a quote for a storage locker, stating that her mother's place would not hold her stuff and she had everything packed up and the assistance of a social worker to move her belongings to storage. The ministry advised the appellant that their payment for the storage unit would be a one-time issue, for one month only, and the appellant stated she understood. When the appellant requested an additional supplement for the storage fee she indicated that she was aware that the payment from the ministry was for one month only. However, she had not yet found a place to move to but would have a new place for September. The ministry stated that they told the appellant that she was ineligible for additional storage costs but asked her to submit an invoice. The ministry determined that the appellant did not obtain prior approval for storage costs for July and August as required under section 57(3)(b) of the regulation and her request was therefore declined.

In response to questions from the panel, the ministry stated that they determined the appellant did not have shelter costs while she was staying at her mother's or couch surfing because she had not submitted any agreement for room and board, or any utility bills or other documentation for shelter expenses. The appellant had communicated with the ministry prior to her August 19th request for additional storage fees, but her communication was to request a crisis supplement for food and she did not say where her belongings were or anything about the storage cost. When asked why the ministry requested the invoice for the additional storage costs even though they had told the appellant they would pay one month only, the ministry replied that they wanted to present the appellant's request to a supervisor to make an informed decision and ensure there were no mitigating circumstances such as the appellant's mother losing her place to live. The supervisor found that there was no additional information that would allow the ministry to approve further storage costs.

The ministry explained that when the appellant came in on August 19th to ask for the additional storage fees, the ministry reiterated that their payment for one month was a one-time thing and the appellant stated that she was aware of that. The ministry explained to the panel that they rarely pay storage costs, that the client must meet the criteria for a moving supplement, and that they only considered the appellant's initial request because she had a child and it was considered a crisis situation.

The panel makes the following findings of fact:

- The appellant owes \$465.75 in outstanding storage fees and cannot access her baby supplies without paying the account balance;
- The appellant has no resources with which to pay these storage fees;
- The ministry paid the appellant's monthly storage fee for June 2013 and the appellant understood that she was eligible for a moving supplement for storage costs for one month only;

- The appellant is not a transient because she has a child; and
- The appellant had no shelter costs for July, August, and September 2013.

PART F – Reasons for Panel Decision

The issue being appealed is whether the ministry's decision to deny the appellant's request for a moving supplement on the basis that she did not meet the legislated criteria of Appendix A and section 57 of the EAR was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant sections of the EAR are as follows:

Definitions

1 (1) In this regulation:

"transient" means a person who

- (a) has no dependent children,
- (b) has no fixed address, and

(c) in the minister's opinion, is not taking up permanent residence in the community in which the person submits an application for income assistance (part 2) form; (B.C. Reg. 304/2005)

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;

(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 (1) (f) or (g), the least expensive appropriate living costs. (B.C. Reg. 275/2004)

Schedule A

Monthly shelter allowance

4 (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in section 1 (2) of this regulation;

"warrant" has the meaning of a warrant in section 15.2 [consequences in relation to outstanding arrest warrants] of the Act.

(B.C. Reg. 73/2010)

(2) The monthly shelter allowance for a family unit to which section 15 (2) of the Act does not apply is the smaller of (B.C. Reg. 73/2010)

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Item	Family Unit Size	Maximum Monthly Shelter
2	2 persons	\$570

How actual shelter costs are calculated

5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro;
- (e) garbage disposal provided by a company on a regular weekly or biweekly basis;
- (f) rental of one basic residential single-line telephone.

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

- (a) rent for the family unit's place of residence;
- (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
- (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
- (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
- (e) utility costs;
- (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

(3) If utility costs fluctuate, they may be averaged over the periods

- (a) beginning on October 1 and ending on March 31, and
- (b) beginning on April 1 and ending on September 30.

(4) If 2 or more family units share the same place of residence, the actual shelter costs of any one of them are the smaller of

- (a) the amount calculated by
 - (i) dividing the actual shelter costs for all the family units by the number of persons occupying that place of residence, and
 - (ii) multiplying the result by the number of persons in that one family unit, and
- (b) the amount declared by the family unit as the shelter costs for that family unit.

People receiving room and board

6 (1) For a family unit receiving room and board other than in a facility mentioned in section 8 or 9 of this Schedule or from a relative referred to in subsection (2), the amount referred to in section 28 (a) [amount of income assistance] of this regulation is the smaller of the following amounts:

- (a) the sum of

- (i) the actual cost of the room and board, plus
 - (ii) \$60 for each calendar month for each applicant or recipient, plus
 - (iii) \$40 for each calendar month for each dependent child in the family unit;
 - (b) the amount calculated under sections 1 to 5 of this Schedule for a family unit matching the applicant's or recipient's family unit.
- (2) If a family unit receives room and board from a parent or child of an applicant or a recipient in the family unit, only the following amounts may be provided:
- (a) the support allowance that is applicable under sections 2 and 3 of this Schedule to a family unit matching the applicant's or recipient's family unit;
 - (b) Repealed (B.C. Reg. 62/2010)

Transients

10 For a transient, the amount referred to in section 28 (a) [amount of income assistance] of this regulation is the sum of

- (a) the cost of housing in a hostel, if one exists in the community, plus
- (b) the cost of food.

The appellant's position is that she has all her baby items in storage and has no access to them without paying for renting the storage unit. She has no money to replace all her son's stuff as she is not receiving the child tax allowance and the support money she receives from the ministry is not even enough for the month.

The ministry's position is that the appellant is not entitled to shelter costs under Schedule A of the EAR because she does not have shelter expenses and a storage locker is not her place of residence. She is not considered a transient under section 1 because she has a child and may therefore be considered for a moving supplement if she meets the applicable criteria under sections 57(2), and (3). However, the ministry's position is that the appellant does not meet these criteria and is not eligible for a moving supplement. In particular, the ministry notes that even though the appellant significantly reduced her shelter costs by moving to accommodations with no actual shelter expenses and had no other resources with which to pay moving expenses, she moved because she was evicted from her previous accommodations and she did not get prior approval before incurring the additional storage costs beyond the one month.

The panel finds that the appellant does not have shelter costs because there is no evidence to indicate that she submitted any bills or agreements for shelter costs at her mother's place or the places where she was couch surfing, or that the storage locker was her place of residence. The panel therefore finds that the ministry reasonably determined that the monthly storage cost is not a shelter allowance under Appendix A of the EAR.

The panel finds that despite the appellant having no shelter costs since moving to her mother's place or couch surfing, as well as evidence indicating she has no resources for paying the storage fee, she does not qualify for a moving supplement under section 57(2)(d) because she did not obtain the ministry's approval prior to incurring the \$465.75 storage cost that is the subject of her appeal, as required by section 57(3)(b). The panel accepts the ministry's evidence that the appellant

understood that the storage costs would be paid for the month of June only because this was explained to the appellant when she initially requested the moving supplement in June and it was reiterated to her in August when she requested payment for additional months of storage; on both occasions the appellant indicated that she understood that it was just for one month.

In addition, the panel accepts the evidence that the appellant did not obtain the ministry's approval for storage costs past the month of June because even though the appellant contacted the ministry prior to asking for an additional moving supplement on August 19th, she did not mention the storage costs but instead came into the ministry's office to request a crisis supplement for food. Therefore, the ministry reasonably determined that the appellant did not receive the minister's approval before incurring the costs as required by section 57(3)(b).

The panel also finds that the ministry was reasonable in determining that the appellant was not entitled to a moving supplement under section 57(2) (a), (b), (c), or (e) because the appellant did not offer evidence to indicate that she had moved anywhere in Canada for confirmed employment; or to another province or country to improve her living circumstances; nor did she move because her previous accommodation was being sold, demolished or condemned; or to avoid imminent threat to physical safety.

Accordingly, the panel finds that the ministry's decision to deny the appellant's request for storage costs as either a shelter expense or as a moving supplement because the legislated criteria of Appendix A and section 57 of the EAR were not met, was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's reconsideration decision.