

PART C – Decision under Appeal

The decision under appeal is the October 17, 2013 reconsideration decision of the Ministry of Social Development and Social Innovation (the "ministry"), in which the ministry determined that the appellant was not eligible for a supplement for moving costs as provided in s. 57 of the Employment and Assistance Regulation (the "EAR"). In particular, the ministry found that:

- The appellant had not arranged confirmed employment that would significantly promote the independence of the family unit, as required by EAR s. 57(2)(a);
- The moving costs were not required to move to another province or country to improve the living circumstances of the family unit, as required by EAR s. 57 (2)(b);
- There was no evidence that the family unit's rented residential accommodation was being sold or demolished or that a notice to vacate had been given, as required by EAR s. 57 (2)(c);
- The moving costs were not required to move within or adjacent to a municipality or unincorporated area if the family unit's shelter costs would be significantly reduced, as required by EAR s. 57 (2)(d); and
- The moving costs were not required to avoid an imminent threat to the physical safety of any person in the family unit, as required by EAR s. 57 (2)(e).

PART D – Relevant Legislation

Employment and Assistance Act section 4, Employment and Assistance Regulation section 57.

PART E – Summary of Facts

The appellant is a recipient of income assistance and applied for the supplement for moving costs on September 26, 2013. On October 3, 2013 the appellant was advised by the ministry that she was ineligible for the supplement, and she requested reconsideration of that decision.

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

- A Residential Tenancy Agreement representing an agreement between the appellant and the landlord of Residence A, beginning June 1, 2013. The agreement lists the appellant and her son as tenants and the security deposit is \$375, monthly rent is \$750 and does not include heat or electricity. This agreement was signed by the landlord on July 2, 2013;
- A letter from the appellant, dated September 26, 2013, indicating that she will be moving to Residence B on October 1, 2013 with her daughter. She states that she was told by calling the 1-800 number [of the ministry] that she would qualify for moving costs as she can't afford to stay living in Residence A any longer because her son [roommate] is also moving. The appellant adds that there have been constant problems with hydro. She notes that she has attached a copy of her new lease agreement and that she will also need to pay renter's insurance and a damage deposit, which she thinks will be returned to her from her current landlord;
- A Shelter Information form, dated September 25, 2013, completed by the landlord for Residence B, stating that a \$325 security deposit is required, the rent will be \$650 per month, and utilities are not included;
- The appellant's Request for Reconsideration (RFR) dated October 7, 2013 in which she states that she can provide RCMP reports of complaints for her dependent daughter and adult son living together;
- Written submissions on reconsideration from the appellant, dated October 7, 2013 in which she states that there is remaining rent owed for Residence B. The appellant feels that she is entitled to receive \$590 but only received \$341, which she paid towards her rent; however the balance remains outstanding. She states that for months she had been told to move due to ongoing hydro problems and high utilities. She states that her rent at Residence A was \$375 per month because she was sharing with her son, who is also on assistance. She adds that her son and dependent daughter fight constantly which makes their living situation unbearable. The appellant states that she was told that her son could pay part of the utilities or get his own place, which he has done and was also denied assistance with his moving expenses. She explains that all of her belongings, with the exception of small items have been left at Residence A because she cannot afford to have the larger items moved. She states that she owes \$100 for the items that have already been moved to Residence B. The appellant states that she feels that she has been wrongfully advised by the ministry with regards to this move, adding that she is severely exhausted and depressed over this situation and fears that she and her 16 year old daughter will be homeless. She notes that she has previously had to seek the help of the Ombudsman. The appellant states that previously, her troubles with hydro had caused her to live without power which resulted in having showers, doing laundry and cooking at other places and she is still in a bad financial situation from that period. She adds that her

search for employment is being pushed aside whenever there is any crisis and that she and her children are all suffering from depression, concluding that her hands are quite full and this current situation is not helping.

In her Notice of Appeal the appellant states that she was informed by the ministry she had to move because she could not afford the utilities and rent [at Residence A] and there was no money for food. She states that she asked for assistance with moving expenses and was told, "yes", so she signed her lease [Residence B] and then was denied moving expense assistance. She adds that she has lost $\frac{3}{4}$ of everything she owns.

In the Reconsideration Decision, the ministry states that they are satisfied that the appellant did request preapproval before incurring moving costs and does not have the financial resources available to move. However, the ministry finds that the appellant has not demonstrated that her shelter costs will be significantly reduced as a result of the move, but appear to have increased. At Residence A, the appellant's share of shelter costs was approximately \$725 per month (\$375 shared rent + \$350 utilities). At Residence B, the appellant and her daughter will not be sharing with another adult and the monthly costs will be \$650 rent, plus an estimated \$300 for utilities, totalling \$950 per month. Additionally, the ministry noted that within the past 12 months, the appellant has received \$2377 in crisis supplements for shelter costs.

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to EAA section 86(b).

The ministry relied on the information within the reconsideration decision and otherwise submitted no new information.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's October 17, 2013 reconsideration decision in which the ministry determined that the appellant was not eligible for a supplement for moving costs as provided in s. 4 of the EAA and s. 57 of the EAR.

The relevant legislation is as follows:

Employment and Assistance Regulation

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.
 - (h) 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 fulfilin connection with the exercise of a maintenance right assigned to the minister under section 20 [categories that must assign maintenance rights]. (B.C. Reg. 275/2004)

- (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)

* * *

The appellant's position:

The appellant's position, as outlined in the RFR and her accompanying submissions, as well as her submissions in her Notice of Appeal, is that she had been told on numerous occasions by the ministry to move because her utility costs were too high and that when she called the ministry's 1-800 number, she was informed that she would be eligible for assistance to move.

The ministry's position:

The ministry does not dispute that the appellant could not afford to pay the moving costs; however, the ministry's position is that the appellant does not satisfy the legislative criteria set out in sections 57(2)(a) through (e) of the EAR, as follows:

- The appellant had not demonstrated that she required a moving supplement in order to begin employment (as required under s. 57(2)(a));
- The appellant had not demonstrated that she required a moving supplement to move to another province or country to improve her living circumstances (as required by s. 57(2)(b));
- The appellant had not demonstrated that she was moving within a municipality or unincorporated area, or to an adjacent municipality or unincorporated area, because her rental accommodation was being sold, demolished or condemned and notice to vacate had been given (as required by s. 57(2)(c));
- The appellant has not demonstrated that she was moving within a municipality or unincorporated area, or to an adjacent municipality or unincorporated area, because her shelter costs would be significantly reduced as a result of the move (as required under s. 57(2)(d)). The ministry states that the appellant has not demonstrated that her shelter costs will be significantly reduced as a result of the move, but appear to have increased; and
- Finally, the ministry said that there was no evidence of an imminent threat to the physical safety of the appellant or her family (as required under s. 57(2)(e)).

The panel's decision:

The panel notes even though the appellant may not have the financial resources to cover her moving expenses, under section 57 of the EAR, the appellant may only be eligible to receive a moving supplement if she has satisfied one of the eligibility criteria outlined in section 57 (2) (a-e). In the present appeal, the panel finds that the appellant did not demonstrate that she was moving for

confirmed employment; that she was moving to another province or country to improve her living circumstances; that she was moving because her previous residence was being sold, demolished or condemned; that she was moving to significantly reduce shelter costs; or that she was moving to avoid imminent threat to physical safety. Accordingly, the panel finds that the ministry reasonably determined that the appellant was not eligible for moving assistance pursuant to section 57 of the EAR.

Conclusion

For the reasons detailed above, the panel finds that the ministry decision was a reasonable application of the legislation in the circumstances of the appellant. Accordingly, the ministry decision is confirmed.