

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated February 12, 2014 which denied the appellant's request for a supplement for storage fees under Section 55 of *the Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) as the appellant is not eligible for the moving supplement and his request does not fall within the ministry's policy for payment of storage fees as part of moving costs.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 55

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry on Reconsideration included the following documents:

- 1) Residential Tenancy Agreement for the rental of premises by the appellant and a room-mate on a month-to-month basis commencing February 1, 2014 at a total rate of \$1,000 per month;
- 2) Letter dated January 31, 2014 to the ministry from an advocate on behalf of the appellant stating in part that:
 - The enclosed Residential Tenancy Agreement shows that there is an end date to his storage locker fees as the appellant will be moving into his place on February 7.
 - The appellant's request meets the criteria for payment of storage locker fees since there is only a limited time frame.
 - The appellant has been residing at a shelter and has, therefore, not been issued any shelter allowance.
 - The appellant should be allowed to use his shelter allowance to obtain his belongings and finally move into a stable residence; and,
- 3) Request for Reconsideration dated January 14, 2014.

In his Notice of Appeal dated February 24, 2014, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that the ministry did not correctly apply the relevant legislation to his facts.

Prior to the hearing, the advocate provided a written submission on behalf of the appellant which included some additional information in support of evidence previously submitted. The advocate stated that:

- The appellant has been staying at several different shelters, which are intended as short-stay or temporary facilities and do not accommodate anyone that want to stay long-term.
- The appellant has not accessed his shelter allowance of up to \$375 for several months. In these circumstances, it is not uncommon for the ministry to allow a client to access their shelter portion to pay for things such as utilities, strata fees, phone bills, and storage fees.
- The appellant has several priceless items, including family heirlooms and pictures that he would not be able to replace. Having access to his belongings would give him a fresh start in life.
- The appellant's former room-mate was assisting him by paying for the storage costs, and the appellant was accessing other resources as long as he could. The former room-mate is unable to pay presently and, therefore, the appellant has made a request of the ministry.
- The appellant did not know at first how long his items would remain in storage and he proceeded to obtain outside help through his ex-room-mate to pay for the storage.
- Only now, when the appellant had an end-date in sight because he was moving into a new residence has he requested assistance from the ministry.

The Ministry relied on the reconsideration decision which states that:

- The appellant is designated as a Person With Disabilities (PWD).
- On October 16, 2013, the appellant submitted a shelter information form to stay at a hotel for \$800 per month.
- On October 23, 2013, the appellant advised the ministry that he was no longer living at the

hotel and was hoping to be in BC Housing as of November 1, 2013.

- On December 4, 2013, the appellant advised the ministry that he was temporarily staying at a shelter and requested funds for storing his belongings.
- The appellant completed the paperwork to apply for BC Housing on December 4, 2013.
- The appellant did not provide the ministry with any documents or receipts related to the storage facility at this time.
- On December 17, 2013 the appellant inquired about his request for funds to cover storage costs since he was a couple of months behind on payment and he was in danger of losing all of his belongings. The appellant advised the ministry that he was told that he was “next on the list” for BC Housing.
- The appellant did not provide the ministry with any documents or receipts related to the storage facility at this time and the appellant was denied a moving supplement to pay for his storage costs.

The ministry did not raise an objection to the admissibility of the evidence in the appellant's written submission. The panel admitted the information which provides further details of the appellant's living circumstances and the storage of his personal belongings and, therefore, is in support of the information and records that was before the ministry on reconsideration, pursuant to section 22(4)(b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the decision by the ministry, which denied the appellant's request for a supplement for storage fees as part of a moving cost supplement under Section 55 of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR), was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The legislative criteria to be considered eligible for the supplement for moving costs 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. . . .

Ministry's Position

The ministry's position is that the ministry policy provides the ministry discretion to consider that storage fees can be considered as "moving costs" and paid by the ministry when a person's possessions must be stored for a limited period of time, but only if the person is eligible for the moving supplement. The ministry provided an illustration of a move that might fall under the policy as a move that fits within the scenarios set out in Section 55(2) of the EAPWDR where the family knows that they have to vacate their present residence before the new residence is available to them and there is a temporary time lapse of about a month during which their personal effects must be stored in order to facilitate the move. The ministry's position is that the appellant is not eligible for the moving supplement as the circumstances of his move do not fall within one of the listed scenarios requiring a move within or to an adjacent municipality, as set out in Section 55(2) of the EAPWDR. The ministry argued that the appellant did not move because his previous residence is being sold, demolished or condemned or because his shelter costs will be significantly reduced. The ministry argued that the appellant was previously residing in a shelter with no shelter costs and he moved to a residence in an adjacent community for rent of \$500 per month and his shelter costs thereby increased. The ministry argued that the appellant had already incurred the storage expenses at the time of reconsideration and, therefore, the ministry's approval was not received by the appellant before he incurred these costs, as required under Section 55(3) of the EAPWDR. Further, the ministry argued that the appellant did not know when or where he was going to move at the time that he put his belongings into storage and he, therefore, was not 'required' to store his belongings for a specific time period (i.e. from date to date), as stipulated by the ministry policy.

Appellant's position

The appellant's position is that since he has been staying at several different shelters, he has not accessed his shelter allowance of up to \$375 for several months and, in these circumstances, it is not uncommon for the ministry to allow a client to access their shelter portion to pay for things such as storage fees, as part of the ministry policy related to the legislation. The appellant argued, through his advocate, that he has several priceless items, including family heirlooms and pictures that he would not be able to replace and having access to his belongings would give him a fresh start in life. The appellant argued that his former room-mate was assisting him by paying for the storage costs so he was accessing other resources as long as he could but the former room-mate is presently unable to pay and, therefore, the appellant has made a request of the ministry. The appellant argued that he did not know at first how long his items would remain in storage and he proceeded to obtain outside help through his ex-room-mate to pay for the storage. The appellant argued that his storage fees can be considered a "moving cost" since, at the time of his request, he had an end date for his storage costs already in sight as he was moving into a new residence and provided a residential tenancy agreement corroborating this.

Panel decision

Section 55(1) sets out a definition of the costs that are provided for in the section, including "moving cost" as being the cost of moving a family unit and its personal effects from one place to another. While the cost for rental of a storage unit is not specifically included in this definition, the ministry policy clarifies that where the cost can be said to be part of the cost for moving a family unit and its personal effects from one place to another in the specific scenarios set out in the section, and if the possession must be stored for a limited period of time to facilitate this move, the ministry is given discretion to consider storage fees as a part of the family unit's "moving cost."

The panel finds that the evidence establishes where the appellant has moved "to" since he entered

into a tenancy agreement for rental of premises commencing February 1, 2014 at the rate of \$1,000 per month for him and a room-mate. However, the panel finds that there is insufficient evidence to establish where the appellant has moved his personal effects "from" as the appellant has been staying at several forms of temporary accommodation without his personal effects. The ministry stated that the appellant submitted a shelter information form on October 16, 2013 to stay at a hotel for \$800 per month, but that he also advised the ministry approximately a week later that he was no longer living at the hotel and was hoping to get into BC Housing. Since that time, the appellant has been staying at "several different shelters" at no cost to him and with his personal effects already deposited in a storage facility.

The ministry stated that on December 17, 2013 the appellant advised that he was already "a couple of months" behind on payment of his storage fees and he was in danger of losing all of his belongings, but he did not provide the ministry with any documents or receipts related to the storage facility to clarify when his personal effects were moved into storage. The appellant has also not provided information about the circumstances of his move of his possessions out of his previous residence and into storage, or the amount of rent he paid at the residence where his personal belongings had been located. The panel finds that, in the absence of these details being provided by the appellant, the ministry reasonably considered the move of the appellant from a shelter to the new residence as his "move" from accommodation at no cost to accommodation at a cost of \$500 per month, which represents an increase in shelter cost rather than a significant reduction. The panel finds that the ministry reasonably concluded that the circumstances of his move do not fall within one of the listed scenarios requiring a move within or to an adjacent municipality, namely because his previous residence was being sold, demolished or condemned or because his shelter costs would be significantly reduced, as set out in Section 55(2) of the EAPWDR.

While the appellant did not argue that his move falls within one of the scenarios in Section 55(2) of the EAPWDR, his position is that since he has been staying in temporary accommodations, he has not accessed his shelter allowance of up to \$375 per month for several months and he should be allowed access to the shelter portion to pay for his storage fees, as part of the ministry policy related to the legislation. The appellant has not provided a reference to either a section in the EAPWDR or a particular provision in the ministry policy that provides the ministry with discretion to pay for the cost to store a person's personal possessions in lieu of, or as part of, the person's shelter costs, and the panel finds that the ministry reasonably determined that to be eligible for a supplement, the storage costs need to be considered within the definition of "moving costs."

Section 55(3)(b) of the EAPWDR states that a family unit is eligible for a supplement only if a recipient in the family unit receives the ministry's approval before incurring the moving costs. The panel finds that the costs for rental of the storage unit were "incurred" when the appellant entered into an agreement with a storage facility and moved his personal belongings into the facility, as this is when the appellant assumed the legal obligation to pay for the storage unit, whether he paid the amounts on his own behalf or his room-mate paid the costs for him. The appellant did not dispute that on December 17, 2013 he advised the ministry that he was, at that time, "a couple of months" behind on payment of the storage fees, which had been paid for by his room-mate prior to the arrears accruing. As the appellant did not request a supplement from the ministry until December 4, 2013, the panel finds that the ministry's approval was not obtained by the appellant prior to incurring the cost for storage. The panel finds that the ministry reasonably determined that the requirement in Section 55(3)(b) of the EAPWDR was not met in the appellant's circumstances and he is, therefore, not eligible for the moving supplement.

The ministry policy provides that storage fees can be considered as “moving costs” and paid by the ministry when a person’s possessions must be stored for a limited period of time, but only if the person is eligible for the moving supplement. As set out above, the panel finds that the ministry reasonably concluded that the appellant is not eligible for the moving supplement under Section 55 of the EAPWDR. The panel finds that the appellant also did not define for the ministry the “limited period of time” for which his personal possessions would require storage either at the time that he put his belongings into storage or at the time of his request for the supplement. The appellant argued that at the time of his request for the supplement, he had an end date for his storage costs already in sight as he was moving into a new residence and that he provided a residential tenancy agreement corroborating this. However, the appellant did not dispute that he requested a supplement for storage fees from the ministry on December 4, 2013, and that he completed the paperwork to apply for BC Housing on that same day. The ministry stated that on December 17, 2013 the appellant advised that he was told that he was “next on the list” for BC Housing, with no further information provided about the likely date for occupancy, which the panel finds indicates that the appellant still did not know at this time how much longer his personal effects would remain in storage. The panel finds that the ministry reasonable determined that the appellant is not eligible for payment of storage fees as “moving costs” as the appellant has not demonstrated that it was necessary to store his personal effects for a limited period of time in order to facilitate his move.

Conclusion

Overall, the panel finds that the ministry's decision which denied the appellant's request for a supplement for storage fees under Section 55 of the EAPWDR, is a reasonable application of the applicable enactment in the circumstances of the appellant and the panel confirms the ministry's decision.