

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated December 30, 2013 which held that the appellant's request for a moving supplement to move personal items from one city to another city over a year after moving and the cost of storage fees was not eligible for a moving supplement due to not meeting the definition of "moving cost" under section 55 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 55

PART E – Summary of Facts

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

- 1) The appellant's Request for Reconsideration (RFR) dated December 12, 2013 with a 7 page letter attached outlining reasons for reconsideration:
 - The appellant moved to a new city and had not retrieved belongings from the previous city;
 - The appellant was in a shelter while looking for an apartment elsewhere and was assured by someone from Social Services there should not be any problem with moving her belongings should an apartment and appropriate movers be found;
 - Due to unforeseen circumstances beyond the appellant's control, the appellant did not complete dealing with the ministry of Social Services in the previous city before moving;
 - Appellant was in an emergency shelter and had moved from \$800.00 rent per month before going to the shelter to subsidized housing and because there are no resources to cover the costs the appellant believes she should qualify for moving expenses;
 - Appellant had received prior approval from the ministry in the first location before moving to the second location saying it would not be a problem;
 - Appellant was in ill health at the time of the move into subsidized housing and chose not to become physically drained and needing hospitalization because of dealing with all the problems of moving;
 - The subsidized building lent the appellant some furniture;
 - The appellant needs to retrieve from storage her cookware, small appliances and some medical supplies;
 - The appellant is living out of a suitcase and with borrowed items that other people would like back sometime;
- 2) Letter from the appellant to the ministry, dated November 20, 2013 requesting funding to cover moving expenses as per three attached estimates for moving.
- 3) An undated letter from the owners of the storage unit advising the appellant that the account needed to be brought up to date and offering to pay half of what was owing if the items could be moved by Nov.15th.
- 4) Estimate from a moving company dated November 1, 2012.
- 5) Handwritten note listing:
 - two possible estimates for moving and
 - two quotes for storage space in the appellant's current place of residence.

In the Notice of Appeal, dated January 23, 2014 the appellant states the one year time restriction has never been explained to her and she has never heard or read about the one year time restriction. The appellant denied she has already incurred moving expenses.

In a document attached to the Notice of Appeal, the appellant provides a great deal of information that is not related to the appeal. The following information pertains to the appeal:

- she is not supposed to be doing anything strenuous or lifting anything past a post-operative weight;
- subsidized housing is provided by a non-profit society and is available for two years;
- the appellant's belongings were left in storage in anticipation of one permanent move as the appellant views the subsidized housing as temporary;
- the appellant has several medical conditions including issues with her back.

On March 24, 2014 the Employment and Assistance Appeal Tribunal received the appellant's submission in support of the Notice of Appeal. This submission was sent to panel members by email on March 25, 2014. It provided a great deal of information not related to the appeal. In relation to the appeal, the appellant stated that she cannot find a timeframe restriction with regards to moving.

At the hearing, the appellant stated that she has been on social assistance since 1986 due to a disability and that her understanding is that people can apply for a moving supplement without a one year time limit.

The appellant lives in subsidized housing provided by a non-profit society. Prior to moving to her present location, the appellant stated, "I was paying \$828.00 in rent and currently I am paying \$375.00 but, that is the subsidized amount and the agreement is over in September 2014. Since I am in subsidized housing, I just wanted to make one move to permanent housing".

The appellant stated that on November 14, 2014, she had requested money from the ministry for storage fees, but she is no longer seeking money for the storage fees.

The ministry relied on the reconsideration decision and submitted the following clarifying information:

At the hearing the ministry stated that it is unusual to have a request to move items one year later. The request usually is for moving from one place to another within the same duration of time. The ministry further stated that there had not been any follow up from the appellant on her August 2012 request to move, so the request was abandoned. The appellant made a new request, on November 14, 2013, over one year later, after the appellant received a letter from the storage company stating that she needed to move her belongings and pay half of the outstanding fees.

The ministry stated that while they could not find anywhere in the legislations that says there is a time limit on moving of belongings, "procedurally there is a time limit in our office".

The ministry clarified that the term family unit can mean one person.

The ministry stated that when the appellant requested the moving supplement on November 22, 2014, she was already in her present location and had been there for over a year. Therefore, she did not qualify for a moving supplement because she had already moved and had been living in the present location for over one year.

The panel admits the oral testimony of both parties and the relevant written testimony of the appellant into evidence as it provides further information respecting the circumstances and the timing of the appellant's move. It is in support of information and records before the ministry at the time of reconsideration in accordance with section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue to be determined at appeal is whether the ministry's reconsideration decision, which found that the appellant's request for a moving supplement to move personal items over a year after moving and the cost of storage fees was not eligible for a moving supplement due to not meeting the definition of "moving cost" under section 55 of the EAPWDR, was reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances.

The relevant legislation is as follows:

Employment and Assistance for Persons with a Disabilities Regulation

Supplements for moving, transportation and living costs

55 (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 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;

In the ministry's reconsideration decision it states that the appellant's request for a moving supplement over a year after moving and payment of storage fees is denied. The appellant was not eligible for a moving supplement because she did not meet the definition of "moving cost" under section 55 of the EAPWDR.

Under section 55 of the EAPWDR "moving cost" means the cost of moving a family unit and its personal effects from one place to another.

The ministry's position is that on November 22, 2013 when the appellant made a request for assistance with moving costs to get personal belongings from a storage unit in a former location moved to her present location, this request was made over one year from the date of the move and the appellant had managed to live for this time without the personal items, therefore the request did not meet the definition of moving costs under section 55 of the EAPWDR.

At the hearing the ministry representative stated that it is unusual to have a request to move items one year later. The ministry representative also stated that while they could not find anywhere in the legislations that says there is a time limit on moving of belongings," procedurally there is a time limit in our office".

The ministry representation clarified that when the appellant requested the moving supplement she was already in her present location and had been there for over a year. Therefore, she did not qualify for a moving supplement because she had already moved and had been living in the present location for over one year.

The appellant's position is that she should qualify for moving costs because there is no time limit in the legislation for the moving of personal belongings and she moved from a higher rent to a lower cost of living.

The appellant's position is that she did not ask for moving costs sooner because her belongings would not all fit in her current location and since she is living in a temporary subsidized apartment, she wanted to do one move when she found permanent accommodation. The appellant stated that she realizes that she needs some of her belongings because she needs to return some of the borrowed items she has been using. The appellant's position is that some of her belongings have been damaged and she would like to sort her belongings and determine what she needs to keep. The appellant's position is that it will be easier for her to do this and have access to the personal belongings, small appliances, and the medical supplies she needs when the items are in a storage facility in the city where she currently lives.

The appellant's position is that once her belongings are stored in a facility in her current city of residence, she will not require moving costs when she moves into permanent accommodation. The appellant's position is that she no longer needs the cost of storage fees.

Panel Decision

The panel notes that its jurisdiction is limited to a determination of whether the reconsideration decision was reasonable. The reconsideration decision only relates to a finding that the appellant is ineligible for a moving supplement for storage fees and for moving personal items from one city to another over a year after the move because the circumstances do not meet the definition of "moving cost" under section 55 of the EAPWDR.

Under section 55 of the EAPWDR, "moving cost" means the cost of moving a family unit and its personal effects from one place to another;

The ministry has determined that storage fees do not qualify as moving costs under section 55 of the EAPWDR. The panel finds that it is reasonable to determine that storage fees do not fall within the definition of moving cost.

Therefore, the panel finds the ministry's determination that the appellant was not eligible for storage fees due to not meeting the definition of "moving cost" under section 55 of the EAPWDR was a reasonable application of the applicable enactment in the circumstances of the appellant.

With respect to the issue of moving the personal effects, the ministry representative stated at the hearing that while they could not find anywhere in the legislation that says there is a time limit on moving of belongings," procedurally there is a time limit in our office". The ministry representative also confirmed that family unit can refer to one person.

The ministry representative stated that the appellant did not qualify for a moving supplement because she had already moved and had been living in the present location for over one year.

In determining if the appellant met the definition of "moving cost" as defined in the legislation, the panel looked at the two components of the definition. The meaning of "from one place to another" could be interpreted in several ways as the legislation is not clear on what is meant by the term "place". It is unclear if place means moving personal effects from one city to another, from one province to another or from one storage unit to another.

The second component of the definition, "moving a family and its personal effects" could be interpreted as moving the family and personal effects at the same time to the same location or because there is no time limit in the legislation, it could be interpreted as moving the family and then moving the personal effects at a later date. While the appellant has given various reasons for her initial move and the delay in requesting the move of her personal effects, the panel has determined that in the circumstances of the appellant, her request for moving costs should be considered as two parts of one move.

The panel finds that the wording of "moving cost" is broad enough that it can be determined that the appellant does meet the definition. The panel found that moving personal effects from one storage unit to another met the definition of "one place to another".

The panel found that because there is no legislated time limit, the appellant's personal effects could be moved some time after the appellant moved. The panel found the moving of the appellant's personal effects one year later to her new city of residence is the second part of one move.

Therefore, the panel finds the ministry's determination that the appellant was not eligible for a moving supplement to move her personal effects due to not meeting the definition of "moving cost" under section 55 of the EAPWDR was not a reasonable application of the applicable enactment in the circumstances of the appellant.

The appellant appears to argue that the move qualifies under section 55 (2)(d) of the EAPWDR given the reduction in rent; however, (2)(d) is limited to moves within or to adjacent municipalities or unincorporated areas.

It is noted by the panel that the ministry has not made a determination respecting section 55 (2) of the EAPWDR and as such the panel cannot make a determination and refers the matter back to the ministry.

In conclusion, the panel finds the ministry reasonably determined that the appellant was not eligible for storage costs as a moving cost and confirms that part of the reconsideration decision. However, the panel finds the ministry's reconsideration decision which held that the appellant was not eligible for a moving supplement to move her personal effects one year after moving due to not meeting the definition of "moving cost" under section 55 of the EAPWDR was not a reasonable application of the legislation in the appellant's circumstances and rescinds that part of the reconsideration decision.