

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (Ministry) decision to deny the Appellant a moving supplement under Section 57(2) of the Employment and Assistance Regulation because it could not be established that there was an imminent threat to the Appellant's physical safety.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 57

PART E – Summary of Facts

The evidence before the Minister at reconsideration including the following:

- A residential tenancy agreement, dated June 15, 2013, showing that the Appellant rented her original residence for \$600 per month.
- An invoice from a motel, dated September 25, 2013, showing an amount paid of \$350.00 for accommodation September 25 to October 15, 2013.
- A receipt from a motel, dated October 22, 2013, showing a payment of \$100 by the Appellant towards a \$200 invoice for 2 weeks accommodation.
- A Shelter Information form, dated October 29, 2013, showing that the Appellant was renting a room at the motel for \$600 per month.
- A four-page letter written by the Appellant to the Ministry and copied to the local MLA, dated October 31, 2013, explaining the reasons for the Appellant's move. In the letter, the Appellant states that her original residence was sub-let from her roommate landlord, who was renting from the property's owner. Although the landlord had permission to sub-let the property to the Appellant, the owner of the property informed the Appellant that her landlord was \$8000.00 in arrears and that she planned to evict the Appellant's landlord. The owner emailed the eviction notice to the Appellant and asked her to put it on the landlord's door. After the eviction notice was posted, the landlord's mother visited the property and proceeded to yell, swear, and threaten the Appellant with violence. The landlord's mother picked up a rock and threw it at the Appellant's head, causing a large welt. The Appellant went to a friend's house to call the RCMP and an officer investigated the complaint. It is the Appellant's understanding that criminal charges will be laid against the landlord's mother as a result of this incident. She argues that the landlord's family has a history of violence and made threats against her. The Appellant states that she and her daughter then moved into the hotel and tried to return periodically to collect clothes and their pet cat. The Appellant states that they cannot return to the property because of this violence and because the owner intends to sell the property. The Appellant further states that it is her understanding that a new Ministry policy does not require her to provide details of abuse and that she is wondering why she needed to explain the details of the violence she suffered to the Ministry. The Appellant states that she disclosed the abuse and provided the Ministry with the eviction notice issued to her landlord that affected the Appellant's family as well. The Appellant states that she has made a human rights complaint, and that this situation has affected both her physical and mental health. She is worried that the landlord will destroy or damage her belongings as the landlord is aggressive, violent, and capable of harming innocent animals and people.
- A fax from a moving company, dated November 4, 2013, indicating a quote of \$997.50 for moving the Appellant from her original residence to a new location (not the motel).

At the hearing, the Appellant provided oral evidence that the eviction was directed at her landlord due to non-payment of rent, and that the rent that she paid for the sub-let was not being used by the landlord to pay rent to the property owner. The Appellant noted that even if the assault had not occurred, the eviction would have happened anyways. The Appellant stressed that the request for a moving supplement was not because of the eviction, but because of the assault by the landlord's mother after the Appellant contacted the property owner. Although the Appellant was subsequently evicted by her landlord, the eviction notice provided to the Appellant by the landlord was not valid because the notice was not complete.

The Appellant stated that she felt she was living in a dangerous environment after her landlord was

evicted and feels that it is ridiculous that she should have to stay in a dangerous environment in order to qualify for a moving supplement. The Appellant's understanding is that she removed herself and her child from imminent danger. She feels that she acted in the best interest of her family and, if she hadn't left, she would have been at risk of having her child removed.

The Appellant stated that she and her daughter lost their belongings while waiting for the moving supplement and that their time in the motel was stressful and upsetting. They did not go to another motel or a shelter because they could not bring their pets and this motel was in close proximity to her daughter's school. The Appellant stated that the tenants and the owners of the motel were using, buying, and selling drugs, and because she notified the RCMP of the drug activity, the owners of the motel tried to make her life miserable. The Appellant finally left the motel to stay with a woman who took them in. She states that the motel had no grounds for eviction.

Finally, the Appellant stressed that she should not have to provide details of the assault to the Ministry for verification because of a new policy from the Ministry on persons fleeing abuse. The Appellant read the overview of this policy from the Ministry website stressing the following: "It is not necessary for abuse or domestic violence to be verified at this time for the specific policies to be applied, only that it be disclosed."

In response to questions from the Ministry, the Appellant stated that she didn't have a letter from a doctor about her medical conditions because she had difficulty finding a doctor and because she is not the type of person to go to the hospital. The Appellant said that she did ask for a summary report from the RCMP, but they were not able to provide the information. The Appellant reiterated that she is fleeing from abuse and should not have to provide this information for a moving supplement.

In addition, in response to the Ministry's statement that the Appellant had moved 22 times in 26 months, the Appellant stated that she had moved many times and stayed in a number of shelters but she doesn't think that she moved that many times.

Finally, the Appellant admitted that she had been charged with mischief in the altercation with the landlord's mother, but that the landlord's mother was facing criminal charges for the assault.

The panel determined the additional oral and documentary evidence was admissible under section 22(4) of the Employment and Assistance Act as it was in support of the records before the Minister at reconsideration because it provides further evidence as to whether the Appellant was eligible for a moving supplement to avoid imminent danger to her physical health.

PART F – Reasons for Panel Decision

The issue to be decided is whether the Ministry's decision to deny the Appellant a moving supplement under Section 57 of the EAR is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the Appellant.

The legislation in the EAR Section 57 provides the following:

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 fulfil

in 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)

Ministry Policy on Persons Fleeing Abuse:

Overview

Effective: December 03, 2012

The ministry is committed to demonstrating a renewed and serious commitment to protect applicants and recipients that are fleeing from abuse.

Persons who identify as fleeing from abuse must still meet the income and asset requirements of the BC Employment and Assistance program. However, it is important to ensure that when an applicant or recipient discloses they are fleeing abuse, the appropriate policies and exemptions are applied to ensure that:

- the Person Fleeing Abuse Alert is applied to each contact on each case;
- the immediate safety needs of the client are met, including the needs of any dependent children involved; and
- the eligibility decision on assistance is expedited so the applicant/recipient does not remain in the abusive situation because of financial need.

New applicants are exempt from the work search, two-year financial independence requirement, and employment obligations for up to six months and proceed directly to Stage 2 of the intake process.

It is not necessary for abuse or domestic violence to be verified at this time for the specific policies to be applied, only that it be disclosed. Abuse is not limited to physical violence, and can include psychological or emotional abuse, intimidation and stalking.

Policy**Assessment of Applicants and Recipients Fleeing Abuse**

December 3, 2012

The following guidelines are to be used:

The applicant or recipient states they are fleeing abuse from a spouse or relative:

The abuse experienced by the applicant or recipient may be one or more types of family violence defined in the Family Law Act. Family violence includes physical abuse, sexual abuse, psychological abuse, and emotional abuse.

Psychological or emotional abuse includes:

- intimidation, harassment, coercion or threats, including threats respecting other persons, pets or property
- unreasonable restrictions on, or prevention of, a family member's financial or personal autonomy
- stalking or following of the family member, and
- intentional damage to property

Where a child is involved, family violence includes direct or indirect exposure to family violence.

The Ministry argues that the Appellant does not meet the criteria for a moving supplement under Section 57 (2)(e) that the moving costs are 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. The Ministry argues that there is insufficient information to show an imminent threat to the Appellant's physical safety because the altercation with the landlord's mother did not occur until after the Appellant was advised that she needed to move. In addition, although the Appellant provided an RCMP file number, a telephone call by the Ministry to the RCMP did not confirm any threat to the Appellant's safety. Finally, the Ministry notes that the Appellant has been provided with multiple moving supplements this year and argues that the Appellant chose to leave her residence and kept coming back to check her belongings.

The Appellant argues that she provided more information of abuse than she is even required to by Ministry policy and she should not be asked to verify the abuse by the Ministry. The Appellant argued that she removed herself and her child from a dangerous situation and should not have lost her belongings because of bureaucratic delays.

The panel finds that the Ministry's determination to deny the Appellant a moving supplement was a reasonable application of Section 57 (2)(e) of the EAR as the panel found that while the appellant might have experienced an assault from the landlord's mother, when the Ministry contacted the

RCMP, they were unable to confirm an immediate threat to her physical safety to support the appellant's claim. Because the Appellant's landlord was evicted by the property owner, it was reasonable for the Appellant to understand she would be required to move as a result of her landlord's eviction. The subsequent altercation provided an additional, but not the only reason, for the Appellant to move.

Finally, although the Appellant interpreted the policy on persons fleeing abuse as removing the requirement for evidence in support of the legislative requirement to provide a moving supplement for moving to avoid imminent threat to her physical safety, the panel finds that the verification of abuse is waived at the time the applicant or the recipient is in danger. Because the Appellant had removed herself from any danger, the verification can be done. In addition, this policy specifically refers to abuse as "one or more types of family violence defined in the Family Law Act. Family violence includes physical abuse, sexual abuse, psychological abuse, and emotional abuse". The panel therefore finds that the persons fleeing abuse policy does not apply because the assault reported by the Appellant was not from a family member and therefore does not qualify as family violence.

Therefore the panel finds that the Ministry's decision was a reasonable application of Section 57 of the EAR and confirms the Ministry's decision.