



## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the "ministry") December 19, 2013 reconsideration decision denying the appellant's request for a moving supplement because the appellant did not meet the eligibility criteria under section 55 (2) of the Employment and Assistance for Persons with Disabilities Regulation:

- The appellant did not move to confirmed employment;
- The appellant did not move to another province or country;
- The appellant did not move within or to an adjacent community;
- The appellant did not move because his accommodation was being sold, demolished or condemned;
- The appellant did not move to another area of BC to avoid an imminent threat to his physical safety.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 55(2).

## PART E – Summary of Facts

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

- Information from its records that the appellant is a designated Person With Disabilities and that it has been established that the appellant's shelter costs would be significantly reduced as a result of his move.
- A doctor's note dated August 9, 2012, stating that the appellant should move out of the municipality of his residence for his mental health, and that he has been under care as an O.P.
- Appellant's November 29, 2013 request for a crisis supplement for a moving truck rental. The appellant states he has just received an email from seniors non-profit housing located in a municipality approximately 470 km from his original residence, offering housing as of January 1, 2014. He further states that he is trying to put this together because complete rent is \$ 325 inclusive, and he has a quote for a truck rental of \$ 285 plus gas.
- Appellant's December 12, 2013 letter in which he requests a moving supplement in the amount of \$ 325.00 (rental van), \$ 62.70 (Ferry), \$41.70 (one way bus ticket), \$200 (approximate fuel costs) to pay for the cost of moving from his current address to his new address. The total amount is \$ 628.40. He writes that his request is urgent as he must secure the means to pay for moving costs before December 31, 2013 to ensure that he secures his housing in his new residence. He submits that he is eligible for this supplement under section 55 EAPWDR for the following reasons: His request is for "moving cost"; he faces imminent threat to his personal safety if he is not able to move to his new home; he suffers from multiple complex mental and physical impairments; on December 4, 2012 he was accosted by a former co-tenant who struck him 5 times with a 2 by 4, and he has not recovered from this attack; he lives in persistent fear of walking around this community as he has faced multiple assaults there; he does not have the mental strength to continue living there without denigrating his already fragile health further presenting an imminent threat to his health; he is a 60+ year old man and has difficulty travelling to amenities in his current community; a move to this new intended community would place him closer to the medical support he needs; there are no other resources available to him to cover the cost of his move and his friends are chipping in to load the truck; he has made inquiries at several community services - no one has the resources to assist him with this move; he is requesting prior approval for incurring costs; he has provided the ministry with quotes from several moving van rentals and has requested the supplement for the least expensive option (approximately \$ 325.00) while his other costs are fixed and the lowest available.
- Appellant's undated "to whom it may concern" statement, reporting medical and social issues and stating that he is looking at re-location to a smaller community where these obstacles will hopefully be fewer in occurrence, and he is trying to balance a budget of \$ 906.00.
- Appellant's December 4, 2013 request for additional moving expenses of \$104; he states he was unaware of the new ferry rates that are to be added to his previous moving cost application.
- Appellant's December 11, 2013 request for reconsideration in which he states that his move will improve his living circumstances, his mental and physical well-being along with the possibility of employment in an entertainment venue. He has 40 years of history in this venue..

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In his Notice of Appeal dated January 15, 2014, the appellant wrote that he spent his whole check moving from his prior BC residence to his current BC residence [the previous and the current community of residence are around 450 km apart and not adjacent], to a total of \$ 843.33 just after Christmas, exhausting his funds and thus not being able to pay his rent, buy food, pay bills or apply for services (phone, TV, internet of mobility).

In a letter dated February 13, 2014, the appellant states that he has now moved to a smaller community where he doesn't fear every day and can be at peace. He is requesting reimbursement of \$843.33 for moving expenses. He writes of his employment history, housing situation and medical and social problems. Between October 2012 and February 2013 he experienced a beating and got hit by a car. On November 27, 2013 he found out that a seniors non-profit housing unit in a smaller community around 450 km away from his previous residence had become available on January 1, 2014, and he jumped at the opportunity.

In his second letter dated February 13, 2014, the appellant writes of his concerns about physical confrontation and mishap. He states that as he had to rely on soup kitchens and food banks in his former town he found himself being exposed to its poor street life and constant harassment, crime and disease.

At the hearing the appellant spoke of his imminent fear of physical abuse in his former town. He talked of a history of altercations, verbal and physical threats, confrontations at soup kitchens and in computer rooms. He stated that he lived on the streets for some time, life was stressful, and he lived in imminent fear; he always had to be on his guard for fear of being attacked. If you showed your personal belongings you were in danger of being attacked - for instance, he got attacked when he wore valuable boots in a building.

He reported that he was desperate and tried hard to get housing away from his former town, and it took months to get out. Since his move the appellant has volunteered in the entertainment field and is hoping to get paid work in this area, for example at special events. In his new community the air and the water are clean and his allergies have gotten better. There is a brand new hospital in his new community. Now he walks 10 kilometers every day and feels safe - in his former town he would have been asked for drugs and cigarettes.

To a question from the ministry the appellant answered that his injury from the beating happened in December 2012. He was unable to provide proof of this attack because no-one would support him - instead they called him the aggressor.

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admitted the appellant's written appeal statement, his 2 letters and his testimony at the hearing as providing additional information about his request for a moving supplement, about his problems in his former town and about his new living circumstances as being in support of the evidence that was before the ministry when it made its reconsideration decision.

At the hearing the ministry reviewed its reconsideration decision and the relevant legislation, relied on its reconsideration decision and added that the appellant's issue appeared to have been imminent fear, not imminent threat to his physical safety.



## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably denied the appellant's request for a moving supplement because he did not establish that under section 55 (2) EAPWDR

- he moved to confirmed employment;
- he moved to another province or country;
- he moved within or to an adjacent community;
- he moved because his accommodation was being sold, demolished or condemned;
- he moved to another area of BC to avoid an imminent threat to his physical safety.

Section 55(2) of the EAPWDR applies to this appeal:

### **Supplements for moving, transportation and living costs**

55 (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;

...

The ministry determined that the appellant did not meet any of the moving supplement eligibility criteria under section 55(2).

[ ]

In its decision the panel is looking at each applicable section of the legislation as it pertains to the appellant's circumstances.

Confirmed employment – section 55(2)(a)

Pursuant to section 55 (2)(a) the ministry may provide the appellant with a supplement for moving costs if he has arranged confirmed employment anywhere in Canada that would significantly promote his financial independence.

The appellant argues that as a result of his move he will have the possibility of employment in the entertainment industry, as he had been working in this industry before in a nearby town. The ministry argues that the appellant is not eligible for a moving supplement under this section because, although he mentions the possibility of employment in an entertainment venue, he does not provide any confirmation or evidence of having attained employment in his new community. It is the panel's position that, while the appellant may have believed in the possibility of employment in the entertainment industry, there is no evidence of any confirmed employment. The panel finds the ministry reasonably denied the appellant a moving supplement under section 55(2)(a).

Improved living conditions – section 55(2)(b)

Pursuant to section 55(2)(b) the ministry may provide moving costs to another province or country, if the appellant is required to move to improve its living circumstances.

The appellant argues that his living circumstances will improve as a result of his anticipated move because he has mental and physical impairments and a move to this community with its new hospital would place him closer to the medical support he needs. His doctor confirms that the appellant should leave his old town for mental health reasons.

The ministry argues that although it appears that the appellant's move would benefit his living circumstances because of cheaper rent and the possibility of employment, he did not move to another province or country, which is a requirement of this section. The ministry noted that the appellant did not explain how his move to his new community would bring him closer to the medical supports he needs, as it is a more rural area than his previous town.

The panel finds that since the appellant moved within the province of BC he is not eligible for a moving supplement under section 55(2)(b). Furthermore, the panel finds that, despite the problems the appellant was facing in his old town, there is not sufficient evidence that the appellant was required to move to improve his living circumstances: in an outdated note his doctor recommended a move away from the appellant's old hometown for mental health reasons, yet provided no details or explanation on how this move would improve the appellant's living circumstances. There is also no medical evidence supporting the appellant's claim that he is now closer to the medical support he requires. Therefore the panel finds the ministry reasonably determined that the appellant was not eligible for a moving supplement under section 55 (2)(b). The panel acknowledges that the appellant's living circumstances appear to have improved after his move – his rent is cheaper and he feels safer and more relaxed.

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Accommodation sold, demolished or condemned – section 55(2)(c)

Section 55(2)(c) affirms that the ministry may provide moving costs within a municipality or to an adjacent municipality because the appellant's accommodation is being sold, demolished, or has been condemned.

The ministry argues that the appellant did not move within a municipality or to an adjacent municipality, and he did not move because his accommodation was being sold, demolished or condemned. The appellant's new community of residence is approximately 218 miles from his former hometown and is not considered an adjacent municipality.

The panel agrees with the ministry's position and finds that the ministry reasonably denied the appellant a moving supplement under section 55(2)(c).

Significantly reduced shelter costs – section 55(2)(d)

According to section 55(2)(d) the ministry may provide moving costs within a municipality or to an adjacent municipality if the appellant's shelter costs would be significantly reduced.

The ministry argues that the appellant did not move within a municipality or to an adjacent municipality, as previously stated. It acknowledges however that the appellant's shelter costs would be significantly reduced.

The panel agrees with the ministry's position and finds that the ministry reasonably denied the appellant a moving supplement under section 55(2)(d).

Imminent threat to physical safety – section 55(2)(e)

Pursuant to section 55(2)(e) the ministry may provide moving costs to another area in British Columbia to avoid an imminent threat to the appellant's physical safety.

The appellant argues that he faces an imminent threat to his safety and imminent fear of physical abuse, and has to move away as a result. He constantly faces harassment, verbal and physical threats, crime and disease; within the last year-and-a-half he was attacked and beaten and hit by a car. He lives in persistent fear and does not have the mental strength to continue living there.

The ministry argues that there is no indication that the appellant was required to move to another area of BC to avoid an imminent threat to his physical safety. The appellant kept on living in his hometown for one more year after the alleged December 2012 assault, and there is no evidence such as police records that would confirm an imminent physical threat. The doctor's note recommending a move out of the appellant's hometown to improve his mental health is over 16 months old, and ministry records show that the appellant was living in a different area of his hometown at that time; therefore the ministry finds it difficult to determine if this is the physician's current view, given the change of address and lapse of time. The ministry also recognizes that the appellant's physician refers to his mental health only and this section applies to imminent threat to the appellant's physical safety.



Although the appellant appears to have lived in difficult circumstances in his previous town the panel finds that there is not sufficient evidence to establish that the appellant was facing an imminent threat to his physical safety. The panel finds that the ministry reasonably denied the appellant a moving supplement pursuant to section 55 (2)(e).

Conclusion

For these reasons, the panel finds that the ministry's decision to deny the appellant a moving supplement was a reasonable application of the legislation in the circumstances of the appellant. The ministry's decision is confirmed.