

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) Reconsideration Decision of March 4, 2014 in which the ministry found that the appellant was ineligible for a moving supplement under Section 55 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) because she did not receive the minister’s approval before incurring moving costs as required by subsection (3) (b) of section 55.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that she had been notified of the hearing the panel proceeded under Section 86(b) of the Employment and Assistance Regulation (EAR).

The evidence before the ministry at the time of the Reconsideration Decision consisted of the following documents:

1. Shelter information document from an addictions recovery house confirming the appellant's effective date of tenancy as November 1, 2014 at a monthly shelter cost of \$550.00.
2. Shelter Information document dated December 19, 2013 from the appellant's future landlord (Residence # 2) confirming the appellant's tenancy commencing January 1, 2014, to which was attached a receipt from the landlord for a damage deposit of \$325.00
3. Letter to the ministry from the appellant dated December 27, 2013 advising that on January 1, 2014 she was moving into Residence #2 located in the same municipality at a rent of \$675.00 and seeking an increased shelter allowance because her daughter was moving back in with her.
4. Letter to the ministry dated December 29, 2013 from the person who cared for the appellant's daughter while the appellant lived in the addictions recovery house confirming that the appellant's daughter had resided with her during the period November 1 – December 31, 2013 and would be returning to live with the appellant on January 1, 2014.
5. Moving quote of \$630.00 from Mover # 1 dated January 3, 2014.
6. Moving quote of \$525.00 from Mover # 2 dated January 3, 2014.
7. Request for Reconsideration dated January 6, 2014.
8. Letter to the ministry dated January 30, 2014 from an employee of the addictions recovery house where the appellant lived during the period November 1, 2013 - December 31, 2013 advising that the appellant needed to move away from her former residence (Residence #1) in order to remain clean and sober.

In the Reconsideration Decision the ministry states that the appellant is a recipient of income assistance as a single adult person with disabilities with a dependent daughter, who prior to November 1, 2013 was living in Residence # 1 with her daughter and with another adult. On November 21, 2013 she advised the ministry that she had moved to an addictions recovery house on November 1, 2013 in order to focus on her addiction issues, and had left her daughter in the care of a family friend.

On December 19, 2013 the appellant signed a tenancy agreement for Residence # 2 effective January 1, 2014, with a monthly rent of \$650.00. Residence # 1, Residence # 2 and the addictions recovery house are all located in the same municipality.

On January 3, 2014 the appellant requested a moving supplement to retrieve her belongings from storage and move them to Residence # 2. She stated that she had arranged for her father's friend to move her belongings from storage and had to accomplish the move on January 3rd because a monthly storage charge of \$160.00 was due that day. The appellant told the ministry that she had no other resources to pay for the move. On the same day the appellant provided quotes of \$630.00 and \$525.00 from two different moving companies. A ministry worker denied the appellant's request for a moving supplement on the basis that she did not meet any of the eligibility criteria set out in the legislation.

In her Request for Reconsideration the appellant argued that she had to move from Residence # 1 in order to avoid an imminent threat to her physical safety and the physical safety of her daughter, because of the substance abusing lifestyle on the premises and the likelihood that the appellant would fall back into substance abuse.

In her Notice of Appeal the appellant submitted additional written testimony as follows:

1. effective March 1, 2014 her rent had been reduced to \$400.00 because she was sharing her residence with a roommate.
2. a moving company quote of \$375.00 dated March 1, 2014.

The panel finds that item number 1 (that the appellant's rent would be reduced effective March 1, 2014) is not admissible as evidence in support of the information that was before the ministry at the time of reconsideration because the issue of reduced shelter costs was not under reconsideration. It is therefore inadmissible as evidence pursuant to Section 22 (4) of the Employment Assistance Act (EAA).

However, the panel finds that item number 2 (the \$375.00 moving quote) is admissible as evidence in support of the appellant's position under EAA Section 22 (4) because the issue of whether the appellant had incurred her moving costs prior to obtaining the minister's approval was before the ministry at the time of reconsideration.

No representative from the ministry attended the hearing, and no additional evidence was submitted by the ministry prior to the hearing.

In the Reconsideration Decision the ministry stated that it was satisfied that the appellant had moved out of Residence # 1 to avoid an imminent threat to the appellant and her daughter's physical safety, but found that because the appellant stated that she had arranged for her friend's father to move her belongings from storage she had incurred the cost of the move prior to receiving the ministry's approval, and was therefore ineligible for a moving supplement under Section 55 (3) of the EAPWDR.

In the Reconsideration Decision ministry did not address the fact that the appellant had not moved to another area in the province to avoid an imminent threat to the physical safety of anyone in the family unit as required by subsection (e).

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision which determined that the appellant was ineligible for a moving supplement under Section 55 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) because she did not receive the minister's approval before incurring moving costs as required by subsection (3)(b) of section 55.

The criteria for eligibility for a moving supplement are set out in Section 55 of the EAPWDR:

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;

(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 (2) (f) or (g), the least expensive appropriate living costs.

The appellant argues that she had to arrange an immediate move of her belongings on January 3, 2014 to avoid having to pay a storage fee of \$160.00, that she had no other options or resources for the move, and that she had arranged for a friend's father to move her belongings. On the same day she provided to the ministry quotes from two moving companies to support her request for a moving supplement. The appellant also argues that following the completion of her sixty-day program at the addictions recovery house she had to move from Residence # 1 to Residence # 2 to avoid an imminent threat to her personal safety and to the safety of her daughter. Also, in her Notice of Appeal the appellant submitted a written moving estimate of \$375.00 dated March 1, 2014.

In its March 4, 2014 Reconsideration Decision the ministry stated that it was satisfied that the appellant had moved out of Residence # 1 to avoid an imminent threat to the appellant and her daughter's physical safety but did not address the statutory requirement set out in EAPWDR Section 55 (2) (e) that the move to avoid an imminent threat to the physical safety of anyone in the family unit must be to another area in British Columbia. The ministry also found that because the appellant stated that she had arranged for her friend's father to move her belongings from storage she had incurred the cost of the move prior to receiving the ministry's approval, and was therefore ineligible for a moving supplement under Section 55 (3) of the EAPWDR.

Panel Decision

Because neither the appellant nor a representative from the ministry was present at the hearing the panel had no evidence to confirm that the appellant had indeed moved her belongings from storage prior to the Reconsideration Decision.

The panel finds that there was insufficient evidence before the ministry at the time of reconsideration to determine that the appellant had already incurred her moving costs prior to obtaining the minister's approval. The ministry based its finding on the appellant's oral statement that she had arranged for a friend's father to move her belongings from storage. The fact that the appellant provided two moving quotes in writing on the day that she requested a moving supplement suggests that she had not yet incurred the cost of the move. The panel also takes into account the appellant's supporting evidence in her Notice of Appeal of a third moving quote of \$375.00 dated March 1, 2014, from which an inference can be drawn that she had not yet incurred her moving costs.

In conclusion the panel finds that the ministry's decision that the appellant was ineligible for a moving supplement under Section 55 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) because she did not receive the minister's approval prior to incurring moving costs as required by subsection (3)(b) of section 55 is not supported by the evidence.

The panel therefore rescinds the decision.