

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development (“the ministry”) dated December 10, 2013 which held that the appellant did not meet the statutory criterion as per Section 57(3)(b) of the Employment and Assistance Regulation (EAR) to qualify for reimbursement of moving costs within a municipality in B.C. because he had not received the minister’s approval before incurring the costs of moving.

The ministry was satisfied that pursuant to the EAR; Section 57(2)(d), the appellant did move within a municipality and that his shelter costs would be significantly reduced as a result of the move, Section 57(3)(a), that there are no resources available to the family unit to cover the costs of the move and Section 57(4)(a), that the appellant used the least expensive appropriate mode of moving or transportation, were established.

### PART D – Relevant Legislation

Employment and Assistance Regulation, (EAR) Section 57.

## PART E – Summary of Facts

With the consent of the parties, the appeal hearing was conducted in writing in accordance with section 22(3)(b) of the Employment and Assistance Act.

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

- The Request for Reconsideration dated November 21, 2013 in which the appellant stated that unlike a big city, rental units in his small town are at a zero vacancy rate. He indicated that he would have applied in advance for expenses but in his area he had to jump on this unit immediately or be stuck living in a mold infested hole for months. He indicated that he used food money for moving costs and is now \$300 in the hole, after having to borrow to eat. After paying back this money, the appellant stated that it leaves him without money for food for the entire month. With no food banks in the area, the appellant declared that he is in a very bad situation.
- An undated note to certify that 2 movers were paid \$12 per hour for 11 hours of moving time, each receiving \$132.
- A Residential Tenancy Agreement dated October 26, 2013 to begin on November 1, 2013 at a different residence.
- A gas receipt dated October 30, 2013 for \$10.
- A gas receipt dated October 29, 2013 for \$20.
- A letter from the appellant's physician dated October 22, 2013 addressed; "To Whom It May Concern" stated that the appellant had mentioned that he was having adverse effects from excess mold and mildew in his current residence and that the physician recommended that it would be in the best interest of the appellant's health to move to alternate lodging without this problem.
- A letter of eviction dated September 30, 2013 for failure to comply with bringing the hydro bill up to date at the appellant's previous residence.

On appeal, the appellant stated that he disagreed with the decision because of the conditions of his house and the extreme mental condition of the housemate downstairs. The appellant indicated that he feared for his health and life; thus, making the move, and costing him money he could not afford. The appellant argued that he now owes money, causing him extreme hardship. The appellant also argued that the Acts that were sent, applied to people in cities with access to these conditions, but are unfair to people living in the country.

The appellant's statement on appeal adds background information relating to his move and addresses his financial position after the move. This information is admitted by the panel under section 22(4) of the Employment and Assistance Act as evidence in support of the information and records that were before the ministry at the time of reconsideration.

On appeal, the ministry stood by their record.

## PART F – Reasons for Panel Decision

At issue is the reasonableness of the ministry's reconsideration decision to deny the appellant a moving supplement on the basis that he failed to meet the legislative criterion as per Section 57(3)(b) of the Employment and Assistance Regulation to qualify for reimbursement of moving costs within a municipality in B.C. because he had not received the minister's approval before incurring the costs of moving.

The ministry was satisfied that pursuant to the EAR; Section 57(2)(d), the appellant did move within a municipality and that his shelter costs would be significantly reduced as a result of the move, Section 57(3)(a) that there are no resources available to the family unit to cover the costs of the move and Section 57(4)(a) that the appellant used the least expensive appropriate mode of moving or transportation, were established.

The following Section of the EAR applies to this appeal:

### **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;

(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 20 [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.

(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 with the condition of the house he lived in and the extreme mental condition of the housemate downstairs; he feared for his health and life. He stated that the move cost him money he could not afford and which he now owes, causing extreme hardship. He added that unlike a big city, rental units in his small town are at a zero vacancy rate. He indicated that he would have applied in advance for expenses, but in his area he had to jump on this unit immediately or be stuck living in a mold infested hole for months. He further indicated that he used food money for moving costs and is now \$300 in the hole, after having to borrow to eat. After paying back this money, the appellant stated that it leaves him without money for food for the entire month. With no food banks in the area, the appellant declared that he is in a very bad situation. The appellant also argued that the legislation applies to people in cities with access to these conditions, but are unfair to people living in the country.

The ministry argues that the appellant had the ability to submit the moving information and receive the ministry's prior approval before he incurred moving costs because the appellant had signed his tenancy agreement on October 26, 2013 and would have been required to vacate his previous residence October 31, 2013 yet moved on October 29 and 30 and did not advise the ministry about the move until November 5, 2013. The ministry also indicated that the appellant had contacted the ministry on October 21, 2013 regarding moving expenses and was then advised of the legislation regarding a supplement for moving.

As the appellant did not receive the ministry's prior approval before incurring the costs of the move, as required by the legislation, the ministry has determined that the appellant is not eligible for the requested moving supplement.

The panel finds based on the evidence that the appellant undertook his move on October 29, 2013 and sought reimbursement only on November 5, 2013. While the appellant's move may have resulted in a significant reduction to the appellant's shelter cost and provided a healthier living option, the overriding fact is the appellant's failure to obtain the minister's approval before incurring his moving costs. The panel notes that the appellant met the other legislative criteria, however; there is no discretion permitted in this particular piece of legislation. Therefore, the panel finds that the ministry reasonably determined that the legislative criterion under Section 57(3)(b) of the EAPWDR for a moving supplement has not been met and thus, confirms the ministry's reconsideration decision.