APPEAL #

PART C – Decision under Appeal

The decision under appeal is the May 21, 2014 reconsideration decision of the Ministry of Social Development and Social Innovation (the "ministry"), in which the ministry determined that the appellant was not eligible for a supplement for moving costs as provided in section 55 of the Employment and Assistance for Persons with Disabilities Regulation (the "EAPWDR"). In particular, the ministry found that:

- The appellant had not arranged confirmed employment that would significantly promote the independence of the family unit, as required by EAPWDR s. 55(2)(a);
- The moving costs were not required to move to another province or country to improve the living circumstances of the family unit, as required by EAPWDR s. 55 (2)(b);
- There was no evidence that moving costs were 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 was being sold or demolished and a notice to vacate had been given, or has been condemned, as required by EAPWDR s. 55 (2)(c);
- The moving costs were not required to move within or adjacent to a municipality or unincorporated area if the family unit's shelter costs would be significantly reduced as a result of the move, as required by EAPWDR s. 55 (2)(d); and
- The moving costs were not required to move to another area in British Columbia to in order to avoid an imminent threat to the physical safety of any person in the family unit, as required by EAPWDR s. 55 (2)(e).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation section 55(1) and 55(2).

APPEAL #

PART E – Summary of Facts

The appellant is a sole recipient of disability assistance and applied for the supplement for moving costs on March 27, 2014. On April 16, 2014 the appellant was advised by the ministry that he was ineligible for the supplement, and he requested reconsideration of that decision.

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

- A Shelter Information form, dated December 1, 2013, signed by the appellant's landlord in Community A. The form indicates that the total rent is $1250, the appellant's share is $375 per month, and that a $185 security deposit was paid;
- A Shelter Information form, dated March 30, 2014, signed by the appellant's landlord in Community B. The form indicates that the total rent is $1350, the appellant's share is $450 per month, that heat, hot water and hydro are included and the appellant's portion of the security deposit is $225;
- A 2 Month Notice to End Tenancy for Landlord use of Property form, dated January 31, 2014, indicating that the appellant must vacate his rental unit, in Community A, by March 31, 2014 in order for the unit to be occupied by the landlord, landlord's spouse or close member of their family;
- A handwritten moving quote, from a friend of the appellant, dated March 30, 2014, for $1400 to move the appellant from Community A to Community B;
- An undated moving quote from a moving company, for $1600 to move the appellant from Community A to Community B;
- A moving quote from another moving company, dated March 27, 2014, for $1890 to move the appellant from Community A to Community B on April 2 and 3, 2014;
- The appellant's Request for Reconsideration (RFR) dated April 23, 2014 in which he states that he feels that he is being unfairly treated because the situation is not his fault. He included a three page handwritten letter, stating that he feels that he is not being treated fairly because he moved to Community A with the intention of staying but 10 days after he moved into his residence, the landlord issued notice that he had to move out within two months because the house is being sold. The appellant feels that he had no choice but to move back to Community B and that the ministry is using the fact that he received a moving supplement in December 2013, to move from Community B to Community A, against him. He adds that he had checked for other places to rent near Community A and surrounding area and was unable to find anything suitable to accommodate his disability. The appellant states that most of his belongings, including a medical bed, remain in Community A and the previous landlord has been kind enough to let him keep his things there for a while, but not for much longer. He concludes that he is willing to pay back the cost of moving a little bit each month, adding that if he is unable to move his belongings, he will require money to purchase new items.

In his Notice of Appeal the appellant states that he disagrees with the ministry's reconsideration

decision because he had no choice but to move back to Community B because his landlord in Community A decided to move into the house himself, after the appellant had gone through the trouble of moving there from Community B. He added a two page handwritten letter stating that he has had to seek medical attention and take Tylenol 3s because the pain in his back has worsened due to not having his medical bed, which remains in Community A. He feels that his request does meet the eligibility stated by the legislation, in that his residence was being put up for sale and the landlord was moving in, and that the rent at his new residence in Community B is significantly lower than it was in Community A, particularly because his utilities are now included. He adds that because he does not have his bed and is now having to take medication to manage his back pain, his sobriety could be jeopardized. He concludes by asking the ministry to please take a better look at his situation and help him move his belongings, or to provide him with a new bed, which was recently recommended by a medical doctor in Community B.

In the Reconsideration Decision, the ministry states that they are not satisfied that the appellant met the requirements for a moving supplement, as his situation does not meet the locations or circumstances outlined in Section 55(2) of the EAPWDR. The ministry states that in December 2013, the appellant received a $1200 moving supplement to move from Community B to Community A in order to avoid an imminent threat to his safety. The ministry states that, based on the information provided, they are not satisfied that the appellant's recent move back to Community B was to avoid an imminent threat to his physical safety or due to confirmed employment. The ministry adds that Community A and Community B are not adjacent communities (200 km apart) and that the move did not result in significantly reduced shelter costs, ($375 + utilities compared to $450 with utilities included). The ministry does acknowledge that the move was required because the landlord, himself, wanted to use the residence, but the accommodations were not being sold, demolished or condemned.

The appellant's oral evidence on appeal included the following information:

- The appellant feels that this has become an emergency situation and he requires his medical bed, which is located in Community A, to help alleviate his worsening back pain, for which he is now taking Tylenol 3s and valium.
- The appellant had fully intended to stay in Community A, and was told by the landlord prior to moving in that the house would not be sold for two years due to the current housing market, but only 10 days after he moved in, the landlord informed the appellant that he had to leave because the house was being sold. The appellant made arrangements with the landlord to stay; however 15 days later, the landlord told the appellant that he had to leave because the landlord wished to live in the residence.
- The appellant has made arrangements with the previous landlord in Community A to store his belongings for $35 per month, until the appellant can make arrangements to have them moved to Community B.
- The appellant said that he looked for alternative places to live in adjacent communities but there is nothing available that is suitable or that he is able to afford with the amount he is provided by the ministry for shelter costs. His advocate added that the adjacent communities are very small, with limited rentals available.
- The appellant's advocate added that the costs to move the appellant's belongings would be $1400, but the cost to purchase a new bed, as recently recommended by a physician, would be approximately $1900, so it would cost the ministry less to provide the moving supplement,

rather than purchase a new bed.

- The appellant stated that he knows many people and has many friends and good support in Community B, whereas in Community A he knew few people and had some family but they were not very good supports for him.
- The appellant's advocate stated that in Community A the appellant's utility costs would have likely been in excess of $150, therefore the new rent with utilities included in Community B is significantly less.
- The appellant's advocate said that the landlord in Community A is not currently living in the residence, but does have it listed for sale.
- The appellant and his advocate confirmed that there is no jeopardy to the appellant's physical safety in either Community A or Community B.

The ministry relied on the information within the reconsideration decision and otherwise submitted no new information. The ministry clarified that the appellant's moving supplement in December 2013 has no influence on the current request for a moving supplement. The previous supplement was granted because the appellant's circumstances met the eligibility criteria for a moving supplement at that time. The ministry also noted that as per section 55(2)(c)(d), even if the appellant's residence was being sold or the rent had decreased significantly, the moving supplement was only available if the appellant was moving within or to an adjacent community, not Community B, which is 200km away.

The panel finds that Community A and Community B are more than 200km apart and are not considered adjacent communities.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's May 21, 2014 reconsideration decision in which the ministry determined that the appellant was not eligible for a supplement for moving costs as provided section 55 of the EAPWDR.

The relevant legislation is as follows:

Employment and Assistance for Persons with Disabilities Regulation

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.

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;

(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 17 [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.

* * *

The appellant's position:

The appellant's position, as outlined in the RFR, his Notice of Appeal, accompanying submissions and oral evidence presented at the hearing, is that he had fully intended to stay in Community A, but the situation with the landlord gave him no choice but to move back to Community B. He argues that there were no suitable available places in which to move within the adjacent communities because the communities are so small. He claims that the rent he pays in Community B is significantly lower because his utilities are now included. He adds that the cost of moving his belongings from Community A to Community B is cheaper than the new medical bed he is asking the ministry to purchase for him.

The ministry's position:

The ministry does not dispute that the appellant could not afford to pay the moving costs; however, the ministry's position is that the appellant does not satisfy the legislative criteria set out in sections 55 of the EAPWDR, as follows:

- The appellant had not demonstrated that he required a moving supplement in order to begin arranged confirmed employment that would significantly promote the independence of the family unit, as required by EAPWDR s. 55(2)(a);
- The appellant had not demonstrated that he required a moving supplement to move to another province or country to improve his living circumstances, as required by EAPWDR s. 55 (2)(b);
- The appellant had not demonstrated that he was moving within a municipality or unincorporated area, or to an adjacent municipality or unincorporated area, (Community B and Community A are 200 km apart) because his rental accommodation was being sold, demolished or condemned and that a notice to vacate had been given, as required by EAPWDR s. 55 (2)(c);
- The appellant has not demonstrated that he was moving within a municipality or unincorporated area, or to an adjacent municipality or unincorporated area, and that his shelter costs will be significantly reduced as a result of the move, as required by EAPWDR s. 55 (2)(d), only changing from $375 + utilities compared to $450 with utilities included. Communities A and B are not considered adjacent and there was no evidence provided to determine what exactly the additional cost of utilities was in Community A to demonstrate if savings were significant.
- Finally, the ministry states that there was no evidence of an imminent threat to the physical safety of the appellant which would require him to move, as required by EAPWDR s. 55 (2)(e).

The panel's decision:

The panel notes that even though the appellant may not have the financial resources to cover his moving expenses, under section 55 of the EAPWDR, the appellant may only be eligible to receive a moving supplement if he has satisfied one of the eligibility criteria outlined in section 55 (2) (a-e).

In the present appeal, the panel finds that the appellant did not demonstrate:

- that he was moving for the reason of confirmed employment;
- that he was moving to another province or country to improve his living circumstances;
- that he was *moving within his municipality or to an adjacent community* because his previous residence was being sold, demolished or condemned;
- that he was *moving within his municipality or to an adjacent community* to significantly reduce shelter costs; or that he was moving within the province to avoid imminent threat to physical safety.

Accordingly, the panel finds that the ministry reasonably determined that the appellant was not eligible for moving assistance pursuant to section 55 of the EAPWDR.

Conclusion

For the reasons detailed above, the panel finds that the ministry decision was a reasonable application of the legislation in the circumstances of the appellant. Accordingly, the panel confirms the ministry decision.