

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the “ministry”) April 16, 2014 reconsideration decision denying the appellant’s request for a moving supplement under section 55 (2) of the Employment and Assistance for Persons with Disabilities Regulation. While it appears that the appellant used the most economical option to move, the move does not meet the criteria of section 55(2) because the appellant did not move to an adjacent community, she was not required to move to improve her living conditions, and the move was not required to avoid an imminent threat to her physical safety.

PART D – Relevant Legislation

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

PART E – Summary of Facts

After confirming that the appellant was notified in accordance 85(2) of the Employment and Assistance Regulation (EAR) the panel proceeded in her absence in accordance with section 86(b) of the EAR.

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

- Information from its records that the appellant is a sole Person With Disabilities recipient and that
- The move was to significantly more affordable accommodations.
- In a letter dated March 27, 2014, apparently sent along with her request for reconsideration, the appellant states that she has found the least expensive appropriate means of moving as she is keeping all costs low because of her disability circumstances. Her father is paying for his way and cannot afford to pay for her as he has limited income and his own bills. She now has to apply for hardship assistance and emergency help. She will be going back to employment as soon as she can. She brought back other checks and does not understand why she cannot get some help with moving costs. She feels she is not being treated fairly as others have no problem getting help. Her hernia surgery is acting up and she needs help.
- In a second letter also dated March 27, 2014, the appellant writes that she is also moving for employment reasons – she will be looking for work. She states the lease agreement for the shared new place is \$300 – both she and her father will pay \$150. She is also sharing the rental truck cost - her half is \$200, the diesel costs – her half is \$195, and the cost of the movers – her half is \$350. She is hoping to get her damage deposit back for the new place. She needs to pick up the truck on that Friday and return it on Sunday May 30, 2014. This is the only way she can keep costs down.
- In her request for reconsideration dated March 27, 2014 the appellant says that she was sharing her rent with her son. Now she is moving to another municipality with an aging parent whom his doctor says is a walking time bomb. She is moving to this new municipality sharing her place with him so she can find employment there and her daughter can look after the appellant's father. She has to be out of her old place March 31, 2014. She needs emergency help to pay half of the truck, the diesel, and the 2 movers. She has made submissions many times although her files/faxes keep getting moved. She does not ask for help throughout the year. She is desperate to have some emergency help. She is thankful for everything and she is in desperate need. She needs a supplement for hardship and emergency.

In the Notice of Appeal dated May 5, 2014, the appellant says that she would rather live life the best she can than just exist. She is trying to better herself. She had a lot of physical issues/barriers for a long time. Her ordeal started March 13, 2014 when she requested some moving assistance and from then on her conditions have worsened. She has also suffered severe hardship. She was not thinking properly when she was applying and appealing as she has been under tremendous stress. The appellant's Notice of Appeal refers to a letter dated May 2, 2014 in which she writes that she asked for help with moving expenses for her move on April 1, 2014. She was extremely early letting the ministry know she was moving. All the paperwork was in on March 13, 2014. She disagrees with the whole process of the ministry's decision and thinks it's unfair.

Her move to her new place was necessary for her mental and physical well-being. She has been the sole caretaker of her father for almost 5 years since her mother passed. She is responsible for helping her father with grocery shopping and taking him to and from medical appointments.

Her drive from her previous place to her father's place was long and tiring. Her body ached and pained from sitting so long. She truly feels like she was on the brink of a breakdown.

She had absolutely no family support in her previous community. In her new place her daughter and son-in-law can help.

Not having her father close-by would cause more mental anguish and also worsen her fibromyalgia. Stress triggers more damaging effects to her body, on top of the severe nerve damage that she incurs at all times even though she had back surgery. She was told by the doctor that this will be the way for the rest of her life.

She was asked to get 3 estimates on letter head. There is only 1 moving company in her previous municipality. She called them and got an estimate with letter head. She could not afford to run around looking for other estimates outside the community.

She is trying to improve her life. In order to do that she needs cheaper accommodations. She couldn't keep paying \$562.50 per month as it would not leave her with enough money to feed herself. The move was necessary for her physical and mental well-being.

The panel finds the following facts:

The appellant moved within BC between 2 municipalities that are approximately 225km apart and whose boundaries do not touch.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's determination denying the appellant's request for a moving supplement as set out in section 55 (2) EAPWDR because she did not move to an adjacent community, she was not required to move to improve her living conditions, and the move was not required to avoid an imminent threat to her physical safety, was a reasonable application of the legislation or reasonably supported by the evidence.

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;

...

In its decision the panel will be examining 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 she is moving within Canada to confirmed employment that would significantly promote her financial independence.

The appellant argues that as a result of her move she will be able to go back to work while her daughter and son-in-law will look after her father.

The ministry provides no argument on section 55(2) but acknowledges that the appellant's move would allow her to look for employment because her daughter would help care for her father.

It is the panel's position that, while the appellant may believe in the possibility of employment, there is no evidence of confirmed employment that would promote her financial independence. 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 her living circumstances will improve as a result of her move; her shelter costs will be much lower and she will be able to go back to work because she no longer has to look after her aged father all by herself - her daughter and son-in-law will be able to do that. The appellant argues further that her move was necessary for her mental and physical well-being: Not having her father close-by causes her mental anguish, and constantly traveling back and forth affects her health and causes exertion.

The ministry argues that while it appears that the appellant's move would benefit her living circumstances because of cheaper rent, she did not move to another province or country, which is a requirement of this section.

The panel finds that since the appellant moved within the province of BC, the ministry reasonably determined that she was not eligible for a moving supplement under section 55(2)(b).

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 as the appellant's new community of residence is approximately 225km from her former one, and is not adjacent to her new community.

The panel finds that because the 2 municipalities have no common boundaries and are approximately 225km apart from each other the ministry reasonably determined she was not moving to an adjacent community, thus denying the appellant a moving supplement under section 55(2)(d).

Furthermore, the panel finds that there is no evidence that the appellant's accommodation was being sold, demolished, or has been condemned. Therefore the panel finds the ministry was reasonable denying 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 appellant argues that as a result of her move her shelter costs will be significantly reduced and she should therefore be eligible for a moving supplement.

The ministry acknowledges that the appellant's shelter costs would be significantly reduced but argues that the appellant did not move within a municipality or to an adjacent municipality and is therefore not eligible under section 55(2)(d).

The panel finds that because the appellant did not move within a municipality and the municipality where she moved has no common boundaries with her former municipality and is approximately 225km away the ministry reasonably determined she did not move to an adjacent municipality and 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 provides no information on any imminent threat to her physical safety.

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 her physical safety.

The panel finds that there is no evidence to establish that the appellant was facing an imminent threat to her 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.