

PART C – DECISION UNDER APPEAL

The ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated May 6, 2014 determined that the appellant was not eligible for a moving supplement to reimburse moving costs because he did not receive approval prior to incurring these costs as required by section 57 of the Employment and Assistance Regulation, and that cleaning costs and dump fees are not items contained within the definition of moving costs included in the Regulation.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR), section 57.

PART E – SUMMARY OF FACTS

The following evidence was before the ministry at the time of reconsideration:

- A copy of the appellant's Request for Reconsideration dated April 14, 2014.
- A copy of a shelter information form signed May 3, 2013 confirming monthly rent of \$700.00.
- A copy of an updated shelter information form signed March 27, 2014 for an April 1, 2014 rental start date, and monthly rent of \$430.00.
- An undated document provided to the ministry by the appellant that included 3 moving cost estimates and a hand-written notation indicating that a friend made arrangements with the first potential mover before the appellant was able to get more information from the other two movers.
- An invoice dated April 4, 2014 from the chosen mover in the total amount of \$830.02 for cleaning and hauling; this included a dump cost of \$110.02 and 4 hours of unspecified labour for \$120.00.

In the Reconsideration Decision dated May 5, 2014 the ministry confirmed that the appellant is a sole recipient of income assistance, and that his file was opened in May, 2013. The ministry confirmed that the updated shelter document was received on March 28, 2014. The ministry confirmed the undated document with 3 moving costs was received on April 9, 2014. The ministry confirmed that the invoice dated April 4, 2014 was received on April 9, 2014.

In the Reconsideration Decision dated May 5, 2014 the ministry accepted that the appellant was entitled to consideration for a moving supplement to move within his municipality because his shelter costs would be significantly reduced. The ministry accepted that as the appellant's monthly income is \$610.00, he may not have any other available resources to pay for his move.

The Employment and Assistance Appeal Tribunal ("Tribunal") received the appellant's Notice of Appeal on May 15, 2014. The appellant wrote that he had no option but to proceed without pre-approval as he had no place to move and no help with the move until the last moment.

An email was received from the appellant on June 5, 2014 outlining his reasons for appeal. He wrote that the move was very chaotic, and the arrangements with the movers were very nearly last minute. Although he tried to explain the need for the advance estimates to the movers, he did "a very poor job of it" and indeed, even came to believe that post-dating the estimates would be sufficient. He provided the names of the two persons who helped him with the move.

The appellant's email with details of his reasons for appeal was sent to the ministry, and on June 10, 2014 the ministry responded by confirming that the ministry's submission in this matter will be the reconsideration summary provided in the Record of the Ministry Decision.

The panel determines the additional evidence provided by the appellant in support of his Notice of Appeal is admissible under s.22(4) of the Employment and assistance Act as it is in support of the records before the minister at reconsideration and provides some details concerning the issue of advance approval of moving costs.

PART F – REASONS FOR PANEL DECISION

This issue under appeal is whether the ministry's decision that determined that the appellant was not eligible for a moving supplement to reimburse moving costs because he did not receive prior approval before incurring these costs as required by section 57 of the EAR was either a reasonable application of the legislation or reasonably supported by the evidence. The ministry's decision that cleaning costs and dump fees are not included within the meaning of moving cost contained within the EAR is also under appeal. The pertinent legislation is copied, in part, below:

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;

(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 ministry has accepted that the appellant was entitled to consideration for a moving supplement to move within his municipality because his shelter costs would be significantly reduced. The ministry accepted that as the appellant's monthly income is \$610.00, he may not have any other available resources to pay for his move. The ministry's continued objection, as outlined within the Reconsideration Decision, is that the moving costs incurred on April 4, 2014 were incurred without the minister's prior approval, contrary to the mandatory and pre-requisite terms of the legislation.

The appellant's position (contained within his June 5, 2014 email to the Tribunal) is that his move was chaotic and arrangements were last minute, and although he tried to comply with the pre-approval requirement, he "messed up" but not maliciously or without understanding his responsibilities. In his original notice of appeal received by the Tribunal on May 15, 2014, he wrote that he had no place to move and no-one to help until the last moment, and so he had no option but to proceed without advance approval of a moving supplement.

The panel notes the ministry's determination that the appellant satisfied the requirements of section 57(1)(d) (shelter costs reduced) and 57(3)(a) (no other available resources for the move).

Section 57(3)(b) of the EAR requires that the recipient of the moving supplement receive the minister's approval before incurring those costs. The appellant has written that he was aware of this need, but because the move was last minute and chaotic, his efforts to have his moving expenses pre-approved simply did not take place. His invoice for moving was submitted after the move was completed and without advance approval.

Given the mandatory nature of section 57(3)(b) of the EAR, the panel finds that the ministry was reasonable in determining that the appellant did not obtain prior approval from the ministry before incurring the moving costs for which the appellant has requested reimbursement in the form of a moving supplement. Although the ministry accepted that other legislated criteria set out in section 57 were met, eligibility for a moving supplement is conditional upon all of the legislative criteria being met.

Further, moving costs as defined within the EAR are very specific, covering the cost of moving a family unit and its personal effects from one place to another. There is no reference to cleaning or dump costs. The panel finds the ministry was reasonable in concluding that cleaning and dump costs are not included within the definition of moving costs.

The Panel finds the ministry's decision that the appellant was not eligible for a moving supplement because he incurred the moving costs before receiving the minister's approval is a reasonable application of the applicable legislation in the circumstances of the appellant and confirms the reconsideration decision.