

PART C – Decision under Appeal

The decision under appeal is the July 3, 2014 reconsideration decision of the Ministry of Social Development and Social Innovation (“Ministry”), in which the Ministry determined that the appellant was not eligible for a supplement for moving costs because his request did not meet the criteria set out in section 55 of the *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation, section 55.

PART E – Summary of Facts

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

- A Notice of Rent Increase form signed by the appellant's landlord on May 20, 2012 showing that the appellant's rent at his current residence increased to \$353.54 per month as of November 1, 2012;
- A Residential Tenancy Agreement between the appellant and a non-profit senior citizens housing society indicating that the appellant is renting a unit from the society (the "new unit") on a month-to-month basis starting June 1, 2014 for \$345 per month, but which does not include the cost of the appellant's electricity and cablevision; and
- The appellant's Request for Reconsideration dated June 29, 2014 in which he wrote that when he asked for help from the Ministry to move from his current residence to the new unit in the senior citizens housing society building, he was told to get two moving quotes and send them in to the Ministry office. He wrote that he was "not told the right things to do and to look for" and that he needs to get out of where he lives for his "health and well being." The appellant indicated that he has "only half" of his right foot and that it has been like that for 6 years and that he has trouble on stairs all the time. He wrote that he is "being used by [his] family as a cash cow" and that they take "so much of [his] money" that he is lucky if he has some for himself each month and that at the new unit, he will have it all to himself.

In the Ministry's original decision, the Ministry indicated that on June 17, 2014, it received a faxed quote of \$425 from a moving company regarding the appellant's move to his new unit; however, the panel notes that a copy of this faxed quote was not included in the appeal materials.

The appellant is a designated person with disabilities who receives monthly disability assistance. In his Notice of Appeal, the appellant wrote, "what I was told to do by [the Ministry] office I did right, [but] when I called they told me I did it wrong. I did not do so. I got [told] the wrong things to do. I did as I was told by [the Ministry] office." The appellant attached a handwritten submission to his Notice of Appeal in which he repeated that when he first called the Ministry and asked for help with his moving costs, he was told by a Ministry worker to call "lots of moving companies" to get two quotes and send them in to the Ministry and the appellant says he did that. He wrote that the Ministry called him later and told him he "did not have a chance of help from the Ministry at this time" and because he "did not do things right." The appellant wrote that he did as he was told, but the Ministry office did not tell him the rights things to call and look for. The appellant wrote that he does not have any chance of finding a truck or moving company and pay for it himself. The appellant also indicated that the reasons he wanted to move to his own place in the new unit are:

- At the start of the month, he will have all his own cash in the bank so he will have money for food and clothes;
- He will be able to come and go as he pleases whenever. Where he lives now he has a four wheel scooter and a lot of the time he cannot get the scooter out of the yard, but that the scooter is how he gets around; and
- He is diabetic and has to eat three meals a day and he may only have two meals a day if he is lucky and he will have the money to get food – most of the time now he does not have it at all.

At the hearing, the appellant repeated the information in his submissions on reconsideration and attached to his Notice of Appeal. The appellant told the panel he had recently been hospitalized for

surgery on his left foot and that his doctor has told him he needs to live in a place that does not have stairs as he has great difficulty climbing stairs. The appellant told the panel that he rents a room in a house together with some members of his family (he mentioned his niece). The appellant told the panel that his rent for his room is \$353.54 per month and that his niece pays the hydro bill. The appellant told the panel that he has a studio apartment in the non-profit senior citizens housing society building and that it has been ready for him to move into for the past few months. The appellant confirmed that the rent for the new unit is \$345 per month plus electricity which he thinks will be about \$40 or \$45 per month.

The appellant told the panel that he has not paid rent at his current residence for July or August and that he has an eviction notice from his landlord, which he showed to the Ministry, but the Ministry worker handed it back to him without copying it or putting it into his file. (The panel notes that a copy of the eviction notice is not in the appeal materials.) The appellant told the panel that he does not have any money to pay for movers himself and that his family will not help him move to his new unit. The appellant said that he no longer has a driver's licence because he can't afford it and he cannot rent a truck to move his belongings himself. The appellant said that he had tried to call the non-profit senior citizens housing society about moving costs, but he said that they couldn't help him. The appellant told the panel that he has had conflict with his niece's boyfriend – he said the boyfriend hid the charger for his scooter and the appellant had to call the police who told him to contact them if he had any further problems with the boyfriend – and that he is scared of the boyfriend because he gets angry and shouts at the appellant. The appellant said that his friends won't come to help him move because they don't want to have the police involved – the appellant is afraid that when he moves his belongings, it will cause conflict with his family members. The panel notes that the appellant did not expressly say that his family members – the boyfriend of his niece in particular - have threatened him, but he told the panel he spends about 90% of his time in his room with the door locked because he's afraid of the boyfriend.

The Ministry confirmed that the Ministry has paid the non-profit senior citizens housing society rent for the appellant's new unit for the months of July and August 2014, even though the appellant has not moved to the new unit.

The panel accepts the oral testimony of the appellant and of the Ministry representative as information in support of the information that was before the Ministry at the time the decision being appealed was made, under section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the Ministry's July 3, 2014 reconsideration decision in which the Ministry determined that the appellant was not eligible for a supplement for moving costs because his request did not meet the criteria set out in s. 55 of the EAPWDR.

The relevant legislation is as follows:

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 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), ...

Submissions

The appellant's position is that he received incorrect information from the Ministry when he asked about a moving supplement – he was told he had to provide quotes from moving companies, which he had the moving companies provide to the Ministry – and it is not his fault that the Ministry told him the wrong information or the wrong things to do to qualify for a moving supplement. The appellant says that he needs to move to the new unit – for which the Ministry is already paying the rent –

because it will be better for him to live there. He says that there is staff at the new unit who can help him if he has a problem. He also says that the new unit does not have stairs and he will be able to get around better there and that his doctor has told him he needs to live in a place like the new unit that does not have stairs. The appellant also argues that because he will no longer be living with his family members with whom he has conflict and who take money from him, he will have more money available to him to spend on food which he needs because he is diabetic. The appellant argues that he does not have any money of his own to pay for moving – he told the panel he has approximately \$60 in his bank account for the month of August – and that he is unable to get help moving his belongings to the new unit from his family or friends or from the non-profit senior citizens housing society who run the building where the new unit is located. The appellant said that he has received an eviction notice from the landlord of his current residence and he will be forced to be homeless because he can't afford to move to his new unit. He told the panel he had tried to contact an advocacy group, but they "brushed him off."

The Ministry's position is that the appellant does not satisfy any of the legislative criteria set out in sections 55(2)(a) through (e) of the EAPWDR. The Ministry noted that there is no provision in section 55 to provide a moving supplement for a person who does not have a driver's licence. In particular, the Ministry submits that the appellant does not meet the criteria set out in subs. 55(2)(d) (moving to an adjacent municipality because his shelter costs would be significantly reduced as a result of the move) – the Ministry notes that the appellant's monthly shelter costs at the new unit (\$345 + electricity) are more than his current monthly shelter costs (\$353.54). The Ministry also notes that although the appellant indicated that he is moving for his health and well-being, the information does not satisfy the Ministry that the appellant is required to move to avoid an imminent threat to his physical safety (the criteria set out in subs. 55(2)(e) of the EAPWDR). The Ministry notes that the appellant says that he is afraid of the boyfriend of his niece, but there is no information this poses a threat to the appellant's physical safety. The Ministry also acknowledged that the appellant said he had received an eviction notice because he has not paid rent at his current residence for July and August, but the copy of the eviction notice was not in the Ministry's records.

The panel's decision:

The panel notes 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 subsection 55(2)(a)-(e). In the present appeal, the panel finds that the appellant did not demonstrate that he was moving to the new unit to significantly reduce his shelter costs or that he was moving to avoid imminent threat to his physical safety. Accordingly, the panel finds that the Ministry reasonably determined that the appellant was not eligible for moving supplement under section 55 of the EAPWDR.

Conclusion

For the reasons detailed above, the panel finds that the Ministry decision was a reasonable application of section 55 of the EAPWDR in the circumstances of the appellant because the appellant did not demonstrate he met the criteria set out in subs. 55(2) of the EAPWDR. Accordingly, the Ministry decision is confirmed.