

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated July 3, 2014, which held that the appellant is not eligible for a moving supplement pursuant to Section 55 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). The ministry found that the appellant was not eligible for a moving supplement because he failed to meet the criteria listed in section 55 (2), and (3) (a) and (b) of the EAPWDR, namely:

- the moving costs were not incurred for any of the reasons set out in S 55 (2) and in particular were not because the move significantly reduced the appellant's shelter costs;
- there were resources available to the appellant to cover the costs for the move [section 55 (3)(a); and
- the appellant did not receive the ministry's approval before incurring the moving costs [section 55 (3)(b).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – section 55 and Schedule A

PART E – Summary of Facts

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

1. Request for Reconsideration signed and dated July 2, 2014 which stated that the appellant thought he did everything he needed to in terms of notifying the ministry of his intention to move, he is concerned about the ministry losing his documents from the move and he believes the ministry should help people not penalize them;
2. A Shelter Information form dated April 22, 2013 which indicates that appellant's address from which he moved;
3. A hand written notice of moving from the appellant signed and dated April 7, 2014 which states that he had been on a waitlist for years, now he can move and he will be moving at the end of April;
4. A signed declaration of income and assets dated April 30, 2014;
5. A 2-page Residential Tenancy Agreement signed by the appellant and dated April 6, 2014; and
6. Moving quotes from 3 different companies, each indicating the cost of the appellant's move. One quote was for \$399.00, a second quote was for \$550.00 and a third quote for \$300. The last quote indicates that the \$300 was paid in full in cash and the date of the move is April 30, 2014.

A Notice of Appeal signed and dated July 11, 2014 which states that the ministry's decision was unfair to the poorest of the people and that if this was a senator, MLA or MP or other government worker the amount would have been paid.

At the hearing the appellant stated that:

- he advised the ministry that he was moving;
- his new landlord contacted the ministry with the details of the rent;
- he obtained quotes from 3 different moving companies and hired the least expensive one;
- he had to move from his previous residence because his roommate (his daughter) moved out and he could not afford the rent on his own, nor did he want to share accommodations with someone else;
- he admits he did not advise the ministry that he required assistance with the moving expenses;
- at his previous residence, he paid half of \$675 per month plus phone and cable (heat and lights were included);
- at his new residence, he pays \$328 plus \$20 for utilities (heat and light), plus phone and cable;
- there is a savings to him because he has laundry facilities in the building at the new residence while at the old residence he had to walk 2 blocks to access laundry;
- at the new residence, there is an estimated savings of \$20-\$30 per month for laundry expenses;
- he will keep appealing this issue in an attempt to cost the government more money; and
- the ministry is hurting the poor by not helping them understand the system.

At the hearing the ministry relied on the reconsideration decision and noted that:

- phone, heat and light are costs that fall in the definition of shelter costs;
- costs such as cable and laundry are not included;
- the ministry was not informed by the appellant about his laundry costs;

- the decision is based on the legislation and none of the criteria have been met;
- in response to a question, the ministry stated that recipients of assistance can become informed of the services they qualify for online or by its telephone information line;
- the ministry assesses and approves thousands of moving supplements every month, therefore, recipients are aware of the services they can utilize;
- in response to a question, the ministry stated that any reduction in a client's shelter costs would be considered significant, however, in the appellant's case the essential utilities are not included so he has that added cost and he did not provide any information regarding laundry costs.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision to deny the appellant a moving supplement was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant failed to meet the criteria listed in section 55 (2), and (3)(a) and (b) of the EAPWDR?

The relevant legislation is as follows:

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 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*].

(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.

Schedule A of the EAPWDR

How actual shelter costs are calculated

5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro;

(e) garbage disposal provided by a company on a regular weekly or biweekly basis;

(f) rental of one basic residential single-line telephone.

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

(a) rent for the family unit's place of residence;

(b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;

(c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;

(d) property taxes for the family unit's place of residence if owned by a person in the family unit;

(e) utility costs;

(f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs

have received the minister's prior approval.

(3) If utility costs fluctuate, they may be averaged over the periods

(a) beginning on October 1 and ending on March 31, and

(b) beginning on April 1 and ending on September 30.

(4) If 2 or more family units share the same place of residence, the actual shelter costs of any one of them are the smaller of

(a) the amount calculated by

(i) dividing the actual shelter costs for all the family units by the number of persons occupying that place of residence, and

(ii) multiplying the result by the number of persons in that one family unit, and

(b) the amount declared by the family unit as the shelter costs for that family unit.

The Appellant's Position

The appellant's position is that he did notify the ministry of his intention to move, hired the least expensive movers and he was not aware he had to ask for the moving supplement prior to the move. He also argues that he now saves \$20 - \$30 in laundry costs so the move does save him money.

The Ministry's Position

The ministry's position is that the appellant's move to the new residence does not significantly reduce his shelter costs, he had the resources to pay for the move and he did not receive approval before incurring the costs.

The Panel's Decision

Section 55(2)(d) of the EAPWDR states that a person can qualify for a moving supplement if, by moving, the person's shelter costs are reduced significantly. The appellant argues that he is saving \$20 - \$30 per month in laundry costs by moving. The ministry argues that the appellant now pays for his utility costs, shelter costs only include essential utilities not laundry and the appellant did not mention the laundry cost savings prior. The panel finds that Schedule A of the EAPWDR does not include laundry as a shelter cost. Therefore, in the calculation of shelter costs, the ministry must consider the essential utilities as outlined in Schedule A. Since the appellant has a reduction in rent of \$9.50 but the added expense of \$20 for utilities, his move does not reduce his shelter costs. The panel finds the ministry reasonably determined that the appellant's move did not significantly reduce his shelter costs and that the appellant's move did not meet the criteria set out in S 55 (2)(a)-(c) or (e).

Section 55 (3)(a) of the EAPWDR states that a moving supplement can be provided if there are no resources available to the recipient to cover the costs. The ministry argues that the appellant had the resources to pay for the move as he paid for it prior to submitting his claim to the ministry. The appellant provided no evidence and made no submissions in relation to this issue. The panel finds that the evidence establishes that the appellant did pay for the moving costs on his own as he moved April 30, 2014, the receipt shows that the bill was paid in cash, and he requested the supplement on May 2, 2014. The panel finds the ministry reasonably determined that the appellant had the resources available to him to pay for the moving costs.

Section 55(3)(b) of the EAPWDR requires that a recipient receives the ministry's approval before incurring the costs for which the supplement is requested. The appellant argues that he notified the ministry of his move prior to the move but admits he did not request funds for the moving costs at that time. The ministry argues that the appellant did not have pre-approval for the moving costs. The panel finds that the evidence demonstrates that the appellant moved April 30, 2014 and submitted his request for supplement May 2, 2014 therefore did not have preapproval for the expense of the move. The panel finds that the ministry reasonably determined that the appellant did not receive the ministry's approval before incurring the costs of the move.

Conclusion

The panel finds that the ministry reasonably concluded that the evidence establishes that the required criteria set out in Section 55 (2), and (3)(a) and (b) of the EAPWDR have not been met. The panel therefore finds that the ministry's decision to deny the appellant's request for a moving supplement was a reasonable application of the legislation and was supported by the evidence. Thus, the panel confirms the ministry's reconsideration decision.