

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated June 26, 2014 which held that the appellant was not eligible for a moving supplement pursuant to section 55 of the Employment and Assistance for Persons with Disability Assistance Regulation (the “EAPWDR”).

The Ministry found that the appellant had resources available to her to cover the costs of the move and was not eligible for a moving supplement under section 55(3)(a) of the EAPWDR.

### PART D – Relevant Legislation

The Ministry relied on the following legislation in making their determination:

Employment and Assistance for Persons with Disability Regulation (the “EAPWDR”), section 55

## PART E – Summary of Facts

The evidence before the ministry at reconsideration included the following documents:

Employment and Assistance Request for Reconsideration (the “Reconsideration Decision”) dated June 5, 2014 in which the appellant stated the reason for her appeal was that the rent in the new residence is cheaper. The move cost the Appellant \$800.00 and that this is a huge financial burden on a single mother with five children.

The Reconsideration Decision had the following attached documents:

1. Letter from the Appellant’s former landlord to “whom it may concern” dated May 30, 2014 stating the property the Appellant was living in at the time was up for sale and expected to sell during the summer of 2014.
2. Invoice from a moving company dated June 4, 2014 confirming the Appellant paid \$800.00 cash to move to the new residence.
3. Letter from the Appellant’s former landlord to the ministry with a receipt for the Appellant’s damage deposit in the amount of \$979.05 and reimbursement for rent overpayment in the amount of \$314.52 signed by the Appellant.
4. Application for Tenancy and a Residential Tenancy Agreement undated for the Appellant for the new property. The Appellant’s non-subsidized rent is \$1,850.00 per month for rent and is paying a security deposit in the amount of \$925.00 and a pet damage deposit in the amount of \$925.00.

The Appellant’s Notice of Appeal dated July 3, 2014 stated that the Appellant is a single mother with 5 kids and that she cannot afford most of the things for her kids’ needs. The money that she paid for the moving expense took away from the children’s needs particularly food related needs.

At the hearing, the Appellant provided the following additional oral evidence:

1. The Appellant paid for the moving expense with money she had in savings; and
2. The Appellant paid for her current damage deposit with the refunded damage deposit of her former residence.

The Ministry did not submit additional evidence on appeal.

The panel finds that the additional evidence provided by the Appellant clarified her situation and was admissible under section 22(4) of the *Employment and Assistance Act* as it was in support of the records before the Ministry at reconsideration.

## PART F – Reasons for Panel Decision

The issue at appeal is whether the Ministry's decision to deny the Appellant a moving supplement to cover the cost of a moving expense is a reasonable application of the legislation in the circumstances of the Appellant or is reasonably supported by the evidence.

Section 55 of the EAPWDR is the section that addresses supplements for moving, transportation and living costs. Section 55(2)(c) allows the ministry to cover the costs of moving providing the recipient's residential accommodation is being sold, among other things, and notice to vacate has been issued.

The ministry relied on section 55(3)(a) to find the Appellant was not eligible for the costs associated with the use of a moving expense having found that the appellant had the resources available to cover the costs associated with the moving expense.

Section 55(2)(c) and (3)(a) have been reproduced below:

(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:

(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;

(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.

The ministry was satisfied that the appellant's residence was being sold and had confirmation from the landlord that the appellant had been given notice to vacate. In determining the Appellant was not eligible for a moving supplement the ministry relied on section 55(3) of the EAPWDR and stated the following:

The ministry is not, however, satisfied that you have no resources available to cover your moving costs, as per section 55(3)(a) of the EAPWDR. On June 24, 2014, the ministry contacted your former landlord... She advised that your damage deposit of \$979.05 (\$975.05 plus interest) was returned to you on June 5, 2014 and she provided a document wherein you signed acknowledging receipt of the damage deposit. The ministry recognizes this document also states that you were also paid back partial June rent in the amount of \$314.52. The ministry recognizes that you paid \$800 cash to a [moving company] on June 4, 2014. The ministry therefore considers your returned damage deposit to be an alternate resource available to cover the cost of your move.

The ministry argued that the appellant had the resources available to her to pay for the costs of her

moving expense and provided a receipt from the appellant's former landlord confirming the appellant had been given her damage deposit in the amount of \$979.05 and \$314.52. The ministry relied on a receipt from a moving company showing the appellant had paid her \$800.00 moving bill with cash as noted on the receipt.

The appellant did not dispute that she paid for the moving expense with cash, but argued that the expenditure has taken away from her children's needs, particularly food, and she continues to struggle to provide for her children's needs as a result.

The appellant at the appeal hearing gave evidence that the money used to pay for the cost of the moving expense came from her saving account and used the deposit from her former residence to pay her current damage deposit. The panel accepts that the money relied on to cover her moving costs came from the appellant's savings account.

The ministry argued that even if the appellant paid for the moving costs from her savings account and did not use the damage deposit she was still not eligible for a moving supplement under section 55(3)(a) as her savings account was a resource available to her to cover the costs.

#### **Panel Decision**

The panel agrees with the ministry findings that the appellant had the resources to cover her moving costs.

The legislation is clear that the ministry may provide moving costs required to move within a municipality or unincorporated area or to an adjacent 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 under section 55(2)(c) of the EAPWDR.

Being eligible for a moving supplement, however, is subject to there being no resources available to the family unit to cover the costs for which the supplement may be provided. As the appellant had resources available to her in her savings account the ministry reasonably determined that she had the resources to cover her moving costs and is not eligible for a moving supplement under section 55(2)(c) of the EAPWDR.

The Panel therefore finds the Ministry's determination that the appellant was not eligible for a moving supplement was a reasonable application of the applicable enactment in the circumstances of the Appellant and reasonably supported by the evidence and confirms the decision.