

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated July 10, 2014 denying the appellant's request for a moving supplement. The ministry found that the appellant satisfied section 55(2)(d) of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR") as her shelter costs would be significantly reduced as a result of the move. However, the ministry further determined that the appellant was not eligible for a moving supplement for the following reasons:

- (a) The appellant did not receive the minister's approval prior to incurring the moving costs as required by section 55(3)(b) of the *EAPWDR*; and
- (b) The ministry was not satisfied that that the moving costs incurred by the appellant were the least expensive mode of moving as required by section 55(4)(a) of the *EAPWDR*.

PART D – Relevant Legislation

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

PART E – Summary of Facts

A ministry representative did not attend the hearing. The panel confirmed that the ministry had been notified of the date, time and location of the hearing. Accordingly, under section 86(b) of the *Employment and Assistance Regulation*, the panel heard the appeal in the ministry's absence.

The evidence before the ministry at the time of the reconsideration decision consisted of copies of the following:

1. The appellant's Request for Reconsideration ("RFR") dated July 3, 2014 attaching an undated letter from a friend ("the RFR Letter");
2. An undated quote received by the ministry on May 21, 2014 setting out the appellant's proposed moving costs including truck rental, fuel and labour costs ("Quote #1");
3. An undated quote received by the ministry on May 21, 2014 setting out the appellant's proposed moving costs including moving articles to storage, recycling and the dump ("Quote #2"); and
4. An undated letter received by the ministry on June 19, 2014 and prepared by the appellant setting out the appellant's costs incurred for her move from her previous residence ("Quote #3").

The Reconsideration Decision states that the appellant is a single recipient with Persons with Disabilities designation and it further provides the following chronology of events:

- On May 8, 2014 the appellant notified the ministry by way of a shelter information form that she was moving to a new residence effective June 1, 2014;
- On May 9, 2014 the appellant requested a moving supplement from the ministry who advised the appellant to submit quotes for its consideration;
- On May 20, 2014, the appellant submitted an eviction notice to the ministry for the residence she was moving to. That eviction notice provided that the appellant had failed to pay her rent for the month of May 2014.
- On May 21, 2014, the appellant submitted Quote #1 and Quote #2 to the ministry.
- Quote #1 provides a "rough estimate" of \$15,000 and is for labour and transportation costs. Quote #2 provides an estimate of "between \$2,500 and \$3,000" for "removal of articles to storage" with additional moving services at a cost of \$158.00 per hour.
- On May 28, 2014 the appellant advised the ministry that Quote #1 was not \$15,000 but was actually \$1,500 and the ministry advised the appellant that it was excessively high.
- On May 29, 2014, the ministry left a message for the appellant advising her that any costs incurred for moving up to that date would not be considered for reimbursement but that any future moving expenses would be considered if supporting information was also provided setting out the number of trips, the cost of fuel and the amount she was required to pay people who were helping her.
- On June 23, 2014, the appellant submitted Quote #3 which provided for truck rental costs of \$600, labour costs of \$1,278 and an itemized list of moving expenses. The costs set out in this quote are described by the appellant as "What I actually owe" and the quote further provides that "the work and move was done over a 5 weekend period."

The RFR Letter was prepared by a friend of the appellant who is now her roommate along with one other person. In the letter, the appellant's friend provides as follows:

- The appellant was anxious about moving and didn't know what to do as her original home contained a great deal of personal items.
- She experienced a serious medical emergency at his home resulting in her being hospitalized for several days.
- In the course of her recovery at his home the appellant discussed the pending move as well as the rental of his truck and hiring of people to assist her.

- That he licensed his truck earlier than he normally would and filled it with gas to assist the appellant.
- That the move could only have been completed in less time if another truck and more labour had been available but given the appellant's health and the help available to her the time could not have been reduced.
- That the appellant was completely dependent on the labourers available.

At the hearing, the appellant stated that she was forced to move from her previous residence as it was being sold and that she was required to vacate the premises no later than May 31, 2014. This caused her a great deal of anxiety and as a result, she suffered a serious medical condition and was admitted to a hospital. Once she was discharged from the hospital, she began the process of moving to her new residence and that took 5 separate weekends of work as she could only do it when people were available to help her. The appellant stated that she was advised by the ministry that she was required to provide two estimates for the cost of her move and that her friend who owned a truck would be approved as long as his quote was lower than the other. The appellant prepared Quote #1 by dividing the maximum figure in Quote #2 (\$3,000) in half. The appellant stated that she was never told by the ministry worker that her quotes had to be in writing.

In response to questions, the appellant stated that she did not have to vacate her original residence until the end of May 2014 and in fact completed the move on May 30, 2014. The appellant recalled being discharged from the hospital in mid to late April 2014 and started moving sometime after that and as such she disagrees with the ministry's suggestion that she moved on May 1, 2014. The appellant stated that when she was released from the hospital, she never returned to her original residence to live but rather moved in directly to her new residence without her belongings. She stated that as she did not have money to pay rent on May 1, 2014 at her new residence, she attended at the ministry office where a worker advised her to have her new landlord prepare an eviction notice and a form was provided to her to give to her landlord.

The appellant called two witnesses in support of her appeal. Both are her housemates at her new residence.

Witness #1 gave evidence that it was difficult for the appellant to understand the ministry's advice regarding her move due to her emotional state. Witness #1 gave evidence that she attended the ministry office with the appellant and did not hear the ministry worker tell the appellant that she was required to provide written quotes but rather, she recalls the worker telling the appellant that as long as her friend with the truck's quote was the lowest, it would be accepted.

In response to questions, Witness #1 confirmed that after the appellant was released from the hospital she took up residence with her at the new residence immediately and did not return to the original residence. Witness #1 recalled that the move started in April after the appellant left the hospital and that it was not known how many hours it would take to complete the move until after it was finished and the last pieces were out of the original house around the 30th of May 2014.

Witness #2 is the appellant's friend who prepared the RFR Letter and the appellant's other current roommate. He gave evidence that he was introduced to the appellant by Witness #1 who was at the time and is currently his roommate. He knew the appellant as an anxious person and he was present during the appellant's medical problem that led to her hospitalization. Witness #2 indicated that he owned a ¾ tonne truck that he offered to the appellant to use for her move and that the cost to license it and fill it with gas was approximately \$500.

In response to questions, Witness #2 recalled that the appellant's move from her old residence began in April 2014 and went on until the end of May 2014. He recalled that he licensed his truck sometime in April 2014. Witness #2 confirmed that he completed the eviction notice that was submitted by the appellant and that she had brought it to him from the ministry. Witness #2 confirmed that he assisted the appellant in preparing Quote #3 and that it was prepared once the move was largely completed.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the Ministry reasonably denied the appellant's request for reimbursement of moving costs. The ministry found that the appellant satisfied section 55(2)(d) of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR") as her shelter costs would be significantly reduced as a result of the move. However, the ministry further determined that the appellant was not eligible for a moving supplement for the following reasons:

- (a) The appellant did not receive the minister's approval prior to incurring the moving costs as required by section 55(3)(b) of the *EAPWDR*; and
- (b) The ministry was not satisfied that that the moving costs incurred by the appellant were the least expensive mode of moving as required by section 55(4)(a) of the *EAPWDR*.

The criteria for eligibility for a moving supplement are set out in section 55 of the *EAPWDR* 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 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.

(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

ATTACH EXTRA PAGES IF NECESSARY

transportation, and

(b) in the case of a supplement under subsection (2) (f) or (g), the least expensive appropriate living costs.

[am. B.C. Reg. 275/2004, s. 2.]

The issuance of a moving supplement to an eligible family unit lies within the discretion of the minister and is subject to conditions that must be met by the applicant.

The family unit must be eligible for disability or hardship assistance and then must satisfy one or more of the conditions as set out in section 55(2)(a)-(e). Further, an applicant must also satisfy each of the following:

1. There must be no resources available to the family unit to cover the costs for which the supplement pay be provided (section 55(3)(a) *EAPWDR*);
2. The recipient must receive prior approval from the ministry before incurring the moving costs (section 55(3)(b) *EAPWDR*); and
3. The supplement may be provided only to assist with the cost of the least expensive appropriate mode of moving or transportation (section 55(4)(a) *EAPWDR*):

In the present case, the appellant receives disability assistance and the ministry is satisfied that she meets section 55(2)(d) of the *EAPWDR* in that her move would significantly reduce her shelter costs. However, the ministry takes the position that the appellant is not eligible for the moving supplement because she did not receive prior approval from the ministry before incurring the moving costs in issue and because it is not satisfied that the appellant's moving costs were the least expensive appropriate mode of moving.

In her Notice of Appeal dated July 22, 2014, the appellant states that she was told by her worker that her move would be paid for by the Ministry. She says she feels badly that the people who helped her are not getting paid. At the hearing, the appellant stated further that she did not know that she needed to provide written quotes to the ministry and that she was told by the ministry that as long as Witness #2's quote was the lowest it would be selected for approval.

Least Expensive Appropriate Mode of Moving

Section 55(4)(a) of the *EAPWDR* provides that a moving supplement may be provided to assist with the cost of the least expensive appropriate mode of moving or transportation.

The appellant gave evidence that she was not told by her ministry worker that she was required to provide written quotes for her moving expenses. This is supported by Witness #1 who attended at the ministry office with the appellant. Further, the appellant gave evidence that she was told by the ministry worker that so long as Witness #2's quote was the lowest, his would be approved.

The appellant prepared two quotes and provided them to the ministry. Both are stamped as received by the ministry on May 21, 2014. Quote #1 provides a "rough estimate" of \$15,000 although this was later revised to \$1,500.00. Quote #2 provides a cost of between \$2,500 and \$3,000 for removal of articles to storage plus a further cost of \$158/hour for all other moving costs. In the Reconsideration Decision both of these quotes were deemed by the ministry to be too high and unreasonable. Subsequent to the move being completed, the appellant submitted quote #3 to the ministry which provided the actual costs of moving at \$1,876 for labour and truck rental.

Returning to the Reconsideration Decision, the ministry takes the view that Quote #1 and Quote #2 were unreasonable and did not satisfy s.55(4)(a) of the *EAPWDR* as being the least expensive appropriate mode of moving but it does not provide any reasons for that view. While Quote #1 was prepared by the appellant

herself, Quote #2 was provided by a local moving company. It was the appellant's evidence that she prepared Quote #1 by dividing the higher amount as set out in Quote #2 (\$3,000) in half. These factors, coupled with the fact that the actual moving costs were only \$376 more than the lowest quote provided leads the panel to find that the ministry's determination that the appellant's moving costs were not the least expensive appropriate mode of moving was unreasonable.

Prior Approval from the Ministry

Section 55(3)(b) of the *EAPWDR* provides that a family unit is eligible for a moving supplement if there are no resources to the family unit to cover the costs for which the supplement may be provided and if a recipient in the family unit receives the minister's approval before incurring those costs. No issue is taken by the ministry in the reconsideration decision with the appellant's lack of resources to cover the costs of her move.

While the panel recognizes that the appellant was under a time restraint to move which caused her a great deal of distress, the evidence indicates that the appellant began incurring her moving costs prior to seeking ministry approval. The appellant and the witnesses are consistent in that the move began some time during mid to late April 2014 and continued over the course of 5 weekends until the move was complete on May 30, 2014. Quote #1 and Quote #2 were not received by the ministry until May 21, 2014, just nine days prior to the move being complete.

Despite the panel's finding with respect to the unreasonable nature of the ministry's determination that the appellant's moving costs were not the least expensive appropriate mode of moving, given the mandatory nature of section 55(3)(b) of the *EAPWDR*, the panel finds that the ministry was reasonable in determining that the appellant did not receive the minister's approval before incurring the moving costs for which the appellant has requested reimbursement in the form of a moving supplement.

Conclusion

Given the panel's findings above, the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision pursuant to Section 24(2)(a) of the *Employment and Assistance Act*.