



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) August 6, 2014 reconsideration decision denying the appellant’s request for a moving supplement under section 57(2) of the Employment and Assistance Regulation (EAR) because the move does not meet the criteria of section 57(2): the appellant is moving within the same municipality; however, his move does not significantly reduce his shelter costs or prevent imminent danger to his physical safety, is not for confirmed employment that would significantly promote financial independence, and his current accommodation is not being sold, demolished or condemned.

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 57(2).



## PART E – Summary of Facts

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

From ministry records:

- On July 9, 2014, the appellant requested a moving supplement.
- The appellant has stated that his son moved out and he is no longer eligible for a 2 bedroom subsidized unit with BC Housing.
- He is moving to a one bedroom unit one block away.
- Due to his tendonitis the appellant is unable to move his workout equipment.
- His son is no longer in town to assist and his family is unable to assist financially.
- The appellant's rent is \$328 and will remain the same after his move.

In his request for reconsideration dated July 24, 2014, the appellant writes:

"My unit's rented residential accommodation is being prescribed to another family according to BC-Housing regulations and a notice to vacate has been given. It is obvious that the unit's rented residential accommodation has been condemned."

In the Notice of Appeal dated August 14, 2014, the appellant's advocate states that the appellant lives in subsidized housing and his rent is fixed regardless of where he lives. Moving to a location that is at a reduced cost is not possible in his situation.....He lives on a very meager income and the decision has proved to create a great hardship in the appellant's already difficult life.

Further documents were provided by the appellant and advocate:

A moving invoice dated August 4, 2014 for \$315.

A moving invoice dated August 3, 2014 for \$122.50.

A 23 page document from BC Housing dated September 3, 2014 detailing rent amounts paid by the appellant. This document confirms that the appellant's rent from March 2014 to July 2014 was \$328 and will remain so until August 1, 2015.

A letter from BC Housing dated September 3, 2014 quoting the market rent for the appellant's previous residence at \$1256 and for his current place at \$ 922. The letter also states that "Had [the appellant] not moved he would have been served a 60 Day Notice to End Tenancy under the Residential Tenancy Act."

The ministry did not object to these documents being admitted as evidence.

At the hearing the appellant stated that he wanted to stay in his 2 bedroom place so that his son could visit him occasionally. BC Housing had told him if he did not comply and moved to the 1 bedroom place he would lose accommodation with BC Housing. He had injured his hands and shoulders and had provided a doctor's note in his Persons With Disabilities application. His move took around 2 weeks. He borrowed a BC Housing cart and transferred some boxes every day and at the end he had a moving company move his heavy items like his futon, books and exercise equipment on August 3 and 4. He paid them with borrowed money which he has now paid back



partially: He has paid back his girlfriend but not his son and 2 friends. He returned the keys on August 4<sup>th</sup>.

To a question from the ministry the appellant answered that he had not received a notice of eviction.

The ministry relied on its reconsideration and added the following information: The appellant was transferred 1 block - that means he can physically move his belongings.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant's statements in his Notice of Appeal, the 2 moving invoices, the 24 page BC Housing document, and his oral testimony as being in support of the information that was before the ministry at reconsideration. The panel also admits the BC Housing letter with the exception of information on market rents; information on market rents is new information and not in support of the information that was before the ministry at reconsideration

The panel finds the following facts:

The appellant moved within a municipality with no change in monthly rent.



## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's determination denying the appellant's request for a moving supplement as set out in section 57 (2) EAR because the appellant's move does not significantly reduce his shelter costs, prevent imminent danger to his physical safety, is not for confirmed employment that would significantly promote financial independence, and his current accommodation is not being sold, demolished or condemned, was a reasonable application of the legislation or reasonably supported by the evidence.

Section 57(2) of the EAR applies to this appeal:

### **Supplements for moving, transportation and living costs**

**57** (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, ...

In its decision the panel will be examining each applicable section of the legislation as it pertains to the appellant's circumstances.

Confirmed employment – section 57(2)(a)

Pursuant to section 57 (2)(a) the ministry may provide the appellant with a supplement for moving costs if he is moving within Canada to confirmed employment that would significantly promote his financial independence.

The appellant did not provide any information or argument that he is moving to confirmed employment. The panel therefore finds that the ministry reasonably denied the appellant a moving supplement under section 57(2)(a).

Accommodation sold, demolished or condemned – section 57(2)(c)

Section 57(2)(c) affirms that the ministry may provide moving costs within a municipality if the appellant's accommodation is being sold, demolished, or has been condemned.

The appellant states that his accommodation has been assigned to another family and it is therefore obvious that his accommodation has been condemned.

The ministry argues that the appellant is not aware of the meaning of "condemned" and is interpreting legislation incorrectly: according to the ministry, the definition of condemned is to judge or pronounce unfit for use or service, and this is not the case with the appellant's accommodation; the reason why he has to move is he is no longer eligible for a 2 bedroom unit.

The panel finds that there is no evidence that the appellant's accommodation was being sold, demolished, or has been condemned. Therefore the panel finds the ministry was reasonable in denying the appellant a moving supplement under section 57(2)(c).

Significantly reduced shelter costs – section 57(2)(d)

According to section 57(2)(d) the ministry may provide moving costs within a municipality if the appellant's shelter costs would be significantly reduced.

The appellant argues that he should be eligible for a moving supplement even though moving to a location that is significantly cheaper is not possible in his situation as he lives in subsidized housing and his rent is fixed.

The ministry argues that the appellant did not move to significantly reduced shelter costs and is therefore not eligible under section 57(2)(d).

The panel finds that there is no evidence that the family unit's shelter costs are significantly reduced as a result of the move and therefore the ministry reasonably denied the appellant a moving supplement under section 57(2)(d)].

*Imminent threat to physical safety – section 57(2)(e)*

Pursuant to section 57(2)(e) the ministry may provide moving costs to another area in British Columbia to avoid an imminent threat to the appellant's physical safety.

The appellant argues that living on the streets after being evicted is a health and safety issue. He would not last long out on the streets, especially now that his health is poor.

The ministry argues that examples for imminent threat are fleeing abuse or physical danger, not the threat of homelessness. The threat to physical safety has to be imminent; since the appellant had not received an eviction notice from BC Housing an eviction was not imminent.

The panel finds that there is not sufficient evidence of an imminent threat to the appellant's physical safety and therefore finds that the ministry reasonably denied the appellant a moving supplement pursuant to section 57 (2)(e).

*Appellant's argument about his specific circumstances*

The appellant argues that he should be entitled to a moving supplement because he did not leave voluntarily - he was told he had to move from his 2 bedroom apartment to a 1 bedroom apartment. Had he stayed on he would have been evicted, no longer be eligible for subsidized accommodation, and be out on the street. The panel notes that it is not within its jurisdiction to decide whether the legislated provisions are incomplete and should take the appellant's circumstances into consideration.

*Conclusion*

For these reasons, the panel finds that the ministry's decision to deny the appellant a moving supplement was a reasonable application of the legislation in the circumstances of the appellant. The ministry's decision is confirmed.