

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) Reconsideration Decision of October 20, 2014 in which the ministry found that the appellant was ineligible for a moving supplement because she did not meet any of the criteria for a moving supplement under Section 55 (2) of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 55

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that she had been notified of the hearing more than two business days prior to the hearing date the panel proceeded under Section 86(b) of the Employment and Assistance Regulation (EAR).

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

1. Undated letter to the ministry from a homeless outreach worker supporting the appellant's move from City 1 to City 2.
2. September 15, 2014 letter from the appellant's family doctor advising that the appellant's health would benefit from a move from City 1 to City 2 for the following reasons:
 - harassment from former roommates who have a history of violence toward the appellant worsens her physical and mental health;
 - her insomnia and abdominal pain which is exacerbated by her electro-magnetic field sensitivity (EMF) would improve by the move to a wi-fi and smart-meter free living situation in City 2;
 - her chronic depression and back pain would benefit because she isolates herself when depressed and her back pain flares with falls on the ice and snow in the region of City 1.
3. September 17, 2014 letter addressed "to whom it may concern" from a City 1 women's counsellor stating that:
 - women who have experienced abuse need to work toward a sense of safety;
 - the appellant has searched unsuccessfully for rental accommodation in City 1.
4. Shelter Information form dated May 10, 2014 confirming that the appellant had arranged rental accommodation near City 1 at a monthly rate of \$400 including heat, hot water, electricity, cable and internet.
5. Shelter Information form dated September 3, 2014 confirming that the appellant arranged rental accommodation in City 2 commencing October 1, 2014 at a monthly rent of \$400 excluding utilities.
6. Mover's estimate #1 for \$1,800.
7. Mover's estimate #2 for \$3,097.07 plus \$154.85 GST for a total of \$3,251.92.
8. Movers' estimates # 3 for \$1,800 and #4 for \$1,600 (both on one page).
9. Request for Reconsideration dated October 8, 2014 in which the appellant stated:
 - her belongings have been in storage since June 1, 2014;
 - she lived in her van near City 1 with "use of house" privileges only, including bathroom, kitchen, TV room and internet;
 - until January 2014 she lived with a physically and verbally abusive roommate;
 - in September 2013 the ministry put her up in a hotel for 3 nights because she had to leave home when her roommate physically assaulted her, but she denied the assault to police because she was afraid;
 - the roommate still lives in the area of City 1;
 - the roommate and his current partner have stolen her boat and car and have been verbally abusive, and as a result she feels unsafe in the City 1 area;
 - all of her physical conditions are made worse by her fear for her safety and the stress of harassment and verbal abuse;
 - she has been unable to find a place to live in City 1;
 - she cannot continue to live in her van over the winter;
 - she has EMF sensitivity, which makes it impossible to eat or sleep and causes brain fog and pain;

- the place she has found in City 2 is away from the threat of violence and harassment and away from wi-fi and smart meters.

In her Notice of Appeal (undated) the appellant stated that:

- her van is a metal box with no insulation;
- her back seizes up in the small space and her depression worsens;
- she is on the verge of another mental/emotional breakdown;
- she spent the past two years bedridden due to a fall on the ice and chronic depression/immobility;
- she is prone to suicidal thoughts;
- she was unable to reside in her two former residences due to the effects of wi-fi and smart meters on her EMF sensitivity;
- since December she has struggled with an autoimmune disorder and small intestine bacterial overgrowth (SIBO);
- her life is in jeopardy if she does not relocate.

The ministry relied on its reconsideration decision, which states that:

- on May 10, 2014 the appellant submitted a shelter information form stated that the appellant would be living near City 1 and paying a monthly rent of \$400 including heat, hot water, hydro, cable and internet.
- on August 19, 2014 the appellant advised the ministry that she had been living in her van, and that the \$400 rent covered electrical hookup and the use of the landlord's kitchen, bathroom, TV room and internet.
- on September 15, 2014 the appellant submitted a shelter information form for a rental accommodation in City 2 commencing October 1, 2014 at a monthly rent of \$400 excluding utilities, and requested a moving supplement for the reasons set out in the appellant's request for reconsideration.
- on September 15, 2014 a ministry worker asked the appellant to provide moving quotes and a police report in relation to harassment from her former roommate and his partner.
- on September 25, 2014 the appellant submitted three moving quotes and letters from her doctor and outreach worker, and was again asked to submit a police report in relation to the alleged harassment
- on September 30, 2014 the appellant submitted a letter from a second outreach worker confirming that she had left an abusive relationship and continued to experience harassment, and that a moving supplement would allow for a safe and warm home for the winter.
- on October 1, 2014 the ministry denied the appellant's request for a moving supplement on the grounds that she did not meet the moving supplement eligibility criteria under EAPWDR Section 55(2), and in particular that the ministry was not satisfied that the appellant was required to move to another area of BC to avoid an imminent threat to her personal safety.

At the hearing the ministry representative explained that the appellant had not provided sufficient evidence, such as a police report, to substantiate her claim that there was an imminent threat to her physical safety because of the harassing and threatening actions of her former roommate and his partner.

The ministry also relied on the shelter information form submitted by the appellant on May 10, 2014 in which she confirmed that her \$400 monthly rental rate included heat, hot water, hydro and _____

cable/internet. In response to panel members' questions regarding payment of storage fees by the ministry the ministry representative explained that on occasion the ministry pays for storage fees if the storage cost is pre-approved and if storage of possessions is necessary for a limited period of time. The appellant had been paying storage fees since June 1, 2014 and had not received prior approval from the ministry.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision which determined that the appellant was ineligible for a moving supplement because she did not meet any of the criteria for a moving supplement under Section 55 (2) of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR).

The criteria for eligibility for a moving supplement are set out in Section 55 of the EAPWDR:

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;
- (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 (2) (f) or (g), the least expensive appropriate living costs.

The appellant argues that she feels that her life is in jeopardy if she continues to live in or near City 1 because her former roommate and his partner have been verbally abusive, she was physically assaulted by her roommate in the past, and her physical problems, including SIBO, have worsened due to her fears for her safety. She also argues that she cannot live in her unheated van over the winter, her living arrangements included only electrical hookup and the use of her landlord's kitchen, bathroom, TV room and cable/internet, and she was suffering physically because her EMF sensitivity was affected by wi-fi and a smart meter. She has been unable to find new rental accommodation in City 1. She has suicidal thoughts and believes she is on the edge of a nervous breakdown.

The ministry argues that because the appellant's circumstances did not meet any of the eligibility criteria for a moving supplement found in EAPWDR Section 55 (2), she was ineligible for a moving supplement. The ministry also argues that because the appellant had incurred storage fees for several months prior to the request for a moving supplement and had not received prior approval before incurring her storage fees she was ineligible for a moving supplement for her storage costs.

Panel Decision

Moving Costs

Subsections (a) – (e) of EAPWDR Section 55 (2) set out five criteria under which moving costs may be provided:

- Subsection (a) is restricted to assisting a recipient who moves anywhere in Canada because she/he has arranged confirmed employment and the move is required to confirm that employment. The appellant has not provided evidence that she is moving to City 2 because she has arranged confirmed employment.
- Subsection (b) applies only to a move to another province or country. The appellant is not leaving the province.
- Subsections (c) and (d) apply only to a move within the same municipality or an adjacent municipality. City 2 is not adjacent to City 1.
- Subsection (e) allows the ministry to assist with moving costs to another area in British Columbia to avoid an imminent threat to the physical safety of the recipient or the recipient's family. Although the appellant claimed that she had to leave her accommodation near City 1 because she felt that her life was in jeopardy due to a prior physical assault and ongoing verbal abuse and harassment she did not provide sufficient corroborating evidence from the police to establish that there was an imminent threat to her physical safety.

The medical evidence submitted by the appellant's physician states that her specified

mental and physical problems would benefit by a move to City 2, but the physician does not indicate that remaining in or near City 1 would constitute an imminent threat to her physical safety.

The shelter information form submitted by the appellant to the ministry on May 10, 2014 states that heat, hot water and electricity are included in the appellant's monthly rent, and the appellant's evidence demonstrates that she has access to her landlord's kitchen, bathroom and TV room. Based on this evidence the ministry's finding that the appellant's living circumstances do not constitute an imminent threat to the appellant's physical safety is reasonable.

Storage Fees

The ministry's policy regarding storage fees states that storage fees can be considered a "moving cost" only if a client meets the EAPWDR Section 55 (2) eligibility criteria for a moving supplement and only if the client has received prior approval before incurring the storage fees. Because the appellant did not meet the eligibility criteria and did not receive prior approval before incurring storage fees the ministry's decision that the appellant was ineligible for a moving supplement for storage fees was reasonable.

In conclusion the panel finds that the ministry's decision that the appellant was ineligible for a moving supplement under Section 55 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) , including a moving supplement for her storage fees, because she did not meet any of the moving supplement eligibility criteria under EAPWDR Section 55 (2) is a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.