

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 8, 2015 which determined that the appellant was not eligible for a moving supplement on the basis that he did not satisfy the legislative requirements of 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 did not attend the hearing but was represented by an advocate who advised the panel that the appellant was not able to attend due to health reasons. The advocate further advised the panel that she was authorized to proceed with the hearing on the appellant's behalf and a Release of Information to that effect signed by the appellant was provided to the panel. The panel confirmed that the appellant had been notified of the date, time and location of the hearing and accordingly, under section 86(b) of the *Employment and Assistance Regulation*, the panel heard the appeal in the appellant'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 June 30, 2015 attaching a letter from the appellant also dated June 30, 2015 ("the RFR Letter");
2. A ministry Shelter Information form dated March 19, 2014 describing the appellant's shelter arrangements for his first residence prior to his move;
3. A ministry Shelter Information form dated July 31, 2015 describing the appellant's shelter arrangements for his new residence;
4. A quote addressed to the appellant and prepared by a moving company setting out the appellant's proposed moving costs ("Quote #1"); and
5. A quote addressed to the appellant and prepared by a second moving company setting out the appellant's proposed moving costs ("Quote #2").

The appellant is a single recipient of disability assistance. He has been designated as a Person with Disabilities ("PWD"). The Reconsideration Decision provides the following chronology of events:

- On April 30, 2015 the appellant advised the ministry that he was planning on moving to be closer to his family in order that they could look after him and therefore improve his living circumstances. The move was to be within the same province as his residence at that time.
- On June 15 and 16, 2015, the ministry received Quote #1 and #2 for the appellant's proposed move.
- The ministry further received the July 31, 2015 Shelter Information form indicating where the appellant had planned to move to.
- On June 17, 2015 the appellant advised the ministry that his new rental start date was August 1, 2015.

In the RFR Letter, the appellant provided the following information:

- He chose to move from his first residence as he was unable to find cheaper accommodation closer to that location.
- He was at that time living with a roommate who was diagnosed with schizophrenia and who was a threat to the appellant's physical safety.
- The appellant's roommate directly threatened him through screaming and as such the appellant was afraid to leave his room when he was home.
- The appellant's roommate verbally threatens their neighbours through screaming.
- In approximately April or May of 2015 the appellant's neighbours called the police due to his roommate's "constant threats" although the appellant notes that he was unsure of exactly what occurred. The appellant writes that he believes his roommate received a warning and now has a criminal record.
- The appellant's roommate has punched holes in the doors and walls of their house and he has destroyed the appellant's personal belongings.
- When the appellant's roommate does not take his medication he becomes volatile and threatening to him and others.
- While he is not moving out of the province or out of the country he is moving to improve his living

conditions as he does not have family near his first residence and he will require their assistance in many respects following his scheduled surgery.

The March 19, 2014 Shelter Information form indicates that the appellant's tenancy at his first residence commenced on April 1, 2014 and that he paid \$525.00 per month in rent (half of the \$1,050.00 total rent). The July 31, 2015 Shelter Information form does not indicate when his tenancy at his new residence commenced but it provides that his rent is \$500.00 per month.

Quote #1 provided a total of \$4,650.00 to move the appellant from his first residence to his new residence while Quote #2 provided a total of \$4,773.00 for the same service.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry reasonably determined that the appellant was not eligible for a moving supplement on the basis that he did not satisfy the legislative requirements of 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* 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 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 found in section 55(2)(a)-(e) of the *EAPWDR*.

In his Notice of Appeal dated July 20, 2015, the appellant writes that he had not found it necessary to move in the past as the situation was not as severe as it is now. He writes further that the problem has escalated and that it has come to a point where he is now being threatened for his life and that he does not have enough money to compensate for the damages being done to his property by his roommate.

At the hearing, the appellant's advocate argued that while the appellant's roommate plays a role in his desire to move to a new residence, the primary reason is to have him live closer to family members who can support him following his surgery as he requires their assistance with chores such as cooking. The advocate submits that this will improve the appellant's living circumstances. The advocate noted that she was aware of the history between the appellant and his roommate but that a protective order had not been sought. The advocate further stated that once the appellant became aware that surgery was required, he felt it was best to move.

The ministry argues that the appellant has not satisfied the mandatory legislative criteria in section 55(2) of the *EAPWDR*. Specifically, the ministry takes the position that the appellant has not met the requirements in section 55(2)(a) through (e). Each of these requirements will be considered in more detail below.

Section 55(2)(a)

For a moving supplement to be issued under this subsection the family unit must be moving anywhere in Canada and a recipient in the family unit who is not working must have arranged confirmed employment that would significantly promote the financial independence of the family unit. The recipient must also be required to move to begin that employment.

The appellant has not argued that he has moved to his new residence to commence confirmed employment. Therefore the panel finds that the ministry was reasonable in its determination that the appellant did not satisfy section 55(2)(a) of the *EAPWDR*.

Section 55(2)(b)

For a moving supplement to be issued under this subsection the moving costs must be required to move the recipient to another province or country if the move is necessary to improve the family unit's living circumstances.

The two Shelter Information forms and the two quotes supports the ministry's argument that the appellant has not moved to another province or country but rather has remained in British Columbia.. Therefore, the panel finds that the ministry was reasonable in its determination that the appellant did not satisfy section 55(2)(b) of the *EAPWDR*.

Section 55(2)(c) and (d)

A moving supplement issued under either of these subsections requires that the move be "within a municipality or unincorporated area or to an adjacent municipality or incorporated area" due to (c) the family unit's rented residential accommodation being sold, demolished, condemned or subject to a notice to vacate or (d) if the family unit's shelter costs would be significantly reduced as a result of the move.

The two Shelter Information forms support the ministry's argument that the appellant has not moved within a municipality or unincorporated area or to an adjacent municipality or incorporated area. Rather, the appellant

has moved several hundred kilometers from his first residence to his second. The panel finds that the ministry was reasonable in its determination that the appellant did not satisfy section 55(2)(c) and (d) of the *EAPWDR*.

Section 55(2)(e)

For a moving supplement to be issued under this subsection, moving costs must be 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.”

As set out above, the appellant argues that his physical safety has been threatened and his personal property damaged by his roommate who suffers from a medical condition that is treated with medication. The ministry however argues that the appellant has shared the same accommodation with his roommate for almost 16 months and that as the word imminent “connotes a degree of immediacy that has not been demonstrated” the legislative requirement in this section has not been met.

As noted above, the appellant did not attend the hearing and as such there was no specific oral evidence from him to further elaborate on the threatening nature of his roommate. While the panel acknowledges the appellant’s concerns regarding the threats “through screaming” and the damage to his property, further information such as the frequency of the threats and their nature were not before the panel.

Further, the panel notes the submissions of the appellant’s advocate that it had not sought a protective order against the roommate and that the appellant did not take steps to move until he became aware of the need for surgery. Additionally, the panel considers the argument of the ministry that the appellant remained in his first residence with his roommate for over one year which does not reflect a concern for an imminent threat to physical safety.

Considering the aforementioned, the panel finds that the ministry was reasonable in its determination that the appellant did not satisfy section 55(2)(e) of the *EAPWDR*.

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*.