

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) Reconsideration Decision of November 23, 2015 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) and because she did not receive the ministry’s approval prior to incurring her moving costs as required by subsection 55 (3) (b).

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 55 (2) and (3) (b)

PART E – Summary of Facts

Neither the ministry representative nor the appellant was in attendance at the hearing. After confirming that the ministry and the appellant had been notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The appellant is a single recipient of disability assistance with no dependents.

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

- on October 20, 2015 the ministry received notification that the appellant had moved to a new municipality that was not adjacent to her previous municipality;
- request for reconsideration received by the ministry on November 13, 2015 to which was appended a typewritten note from the appellant, summarized as follows:
 - she suffers from Chronic Obstructive Pulmonary Disease (COPD) and was advised by her doctor to move out of her house in order to avoid dust, mold and second-hand smoke from her roommates;
 - her portion of the rent prior to her move was \$650 plus utilities;
 - her roommates moved out on August 1, 2015 and September 1, 2015 leaving her with rent owing of \$1,500 plus utilities;
 - she could not find a tenancy within her municipality that was affordable and would allow pets;
 - she found a new tenancy with her mother and brother in a municipality not adjacent to her current municipality, which would lower her monthly shelter costs to \$400 plus approximately \$50 for utilities;
 - she submitted a request for a moving supplement in mid-August together with 3 moving estimates.
- September 18, 2015 letter from the appellant's nurse practitioner/primary care provider stating that the appellant suffers from severe COPD and would greatly benefit from moving to a smoke-free environment;
- August 2015 rent receipts for a total of \$1,500;
- moving estimate #1 for \$2,500 dated September 10, 2015;
- moving estimate #2 for \$3,237.90 dated September 1, 2015;
- moving estimate #3 for \$4,597.95 dated September 1, 2015;
- rental agreement dated September 9, 2015 commencing October 1, 2015 noting a monthly rent of \$1,200 and listing the appellant, her mother and her brother as tenants.

In her Notice of Appeal dated November 30, 2015 the appellant reiterated her arguments at reconsideration and added that the ministry did not inform her that she required approval from the ministry prior to her move in order to be eligible for a moving supplement or that a move to a non-adjacent municipality would affect her eligibility for a moving supplement.

The ministry relied on the reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the reconsideration 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) and because she did not receive the ministry's approval prior to incurring her moving costs as required by subsection 55 (3) (b).

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 (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 had to leave her rental premises because she suffers from COPD and

could not tolerate the dust, mold and secondhand tobacco smoke. She also argues that she became responsible for paying the entire monthly rent of \$1,500 when her roommates moved out without notice, and that her move to a new municipality resulted in a significantly reduced shelter cost because she is sharing the new premises with family members. She adds that the ministry did not inform her that she required ministry approval before incurring her moving costs.

The ministry argues that that the appellant was not eligible for a moving supplement because she had not received prior approval before incurring her moving costs as required by subsection 55(3) (b) and her circumstances did not meet any of the criteria for a moving supplement set out in EAPWDR Section 55 (2). In particular, the ministry was not satisfied that the appellant had met the requirement set out in Section 55 (2) (e), that she was required to move to another part of the province in order to avoid an imminent threat to her physical safety.

Panel Decision

EAPWDR Section 55 (2) sets out five criteria under which moving costs may be provided. At the time of reconsideration only one of these criteria was considered by the ministry to be relevant to the appellant's circumstances, namely Section 55 (2) (e). The ministry did not consider (a), (b), (c), or (d) because the appellant:

- (a) did not indicate that she was moving because she had arranged permanent employment;
- (b) was not moving to another province or country;
- (c) was not moving within her municipality or to an adjacent municipality because her residence was being sold, demolished, or condemned;
- (d) was not moving within her municipality or to an adjacent municipality in order to significantly reduce her shelter costs.

Section 55(2) (e) allows the ministry to provide a moving supplement to assist with moving costs to another area in British Columbia to avoid an imminent threat to the physical safety of the recipient. The appellant provided a note from her nurse practitioner/primary care provider which stated that because the appellant suffers from COPD she would "greatly benefit" from a move to a smoke-free environment, but the nurse practitioner did not indicate that there was a direct, immediate threat to the appellant's physical safety. The panel therefore finds that the ministry reasonably determined that the appellant was not required to move to another part of the province in order to avoid an imminent threat to her personal safety.

The panel also finds that the ministry reasonably determined that the appellant was not eligible for a moving supplement under EAPWDR Section 55 because she did not obtain the ministry's approval prior to incurring her moving costs as required by subsection 55 (3) (b).

In conclusion, the panel finds that the reconsideration decision which determined that the appellant was ineligible for a moving supplement under Section 55 of the EAPWDR because she did not meet the eligibility criteria under EAPWDR Section 55 (2) and did not receive ministry approval prior to moving is a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.