

## 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 December 16, 2015 which held that the appellant was not eligible for a moving supplement because the circumstances of her move did not fall within any of the eligible circumstances set out in section 57(2) of the Employment and Assistance Regulation (EAR).

## PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), sections 57(2)

## PART E – Summary of Facts

The information before the ministry at reconsideration is that the appellant moved from city A to city B, which the ministry notes are 289.8 km from one another, with two municipalities in between. Subsequently, the appellant moved to a different residence within city B. While it is unclear to the ministry, based on the documentation submitted by the appellant, exactly where the appellant resided while in city A, the ministry accepts that while living in city A the appellant placed her belongings in storage in city A and then moved to city B.

The appellant's evidence as set out in her November 27, 2015 Request for Reconsideration submission is that following the death of her fiancé, she was locked out of the home she shared with him and was allowed to move into her place of work. She moved to City B, initially to her sister's home, as she was suffering depression and anxiety due to the loss of her fiancé. The appellant also writes of concern that her daughter is suicidal and that counselling has been arranged for her daughter in City B. The appellant states that she needs to be close to her family in order to manage the health and safety of her and her daughter.

Documentation submitted by the appellant includes:

- A rental agreement for storage in City A.
- A Certificate of Death for the appellant's fiancé, dated April 2015.
- A rental agreement for storage in City A, with a May 2, 2015 receipt attached.
- A December 2, 2015 letter from the Child & Youth Mental Health Services branch of the Ministry of Children and Family Development in City B, recommending individual and group counselling for the appellant's daughter.
- A Shelter Information form dated September 15, 2015, for accommodation in city B in the appellant's sister's home with the appellant's share of rent listed as \$300.
- A Shelter Information form dated August 7, 2014, for accommodation in city A with the appellant's share of rent listed as \$600. Handwritten notations stating this is a false shelter document and that when the owner of the property was contacted, he or she confirmed that the person identified as the landlord is unknown to the owner.
- An invoice for \$2500 for moving belongings from the storage facility in City A to City B in November 2015.

In her Notice of Appeal, the appellant writes that more information is to come. However, nothing further was received from the appellant. The ministry relied on its reconsideration decision as its appeal submission.

At the originally scheduled hearing, the appellant requested and was granted an adjournment to afford an opportunity to provide information the appellant states was given to the ministry prior to it issuing the reconsideration decision but was not included in the appeal record, including a physician's note and photographs and other documents establishing her previous address in City A.

At the rescheduled hearing, the appellant and her mother confirmed that the appellant had been locked out of the home she shared with her fiancé and was staying at her workplace while she attempted to find other accommodation in City A. The appellant's mother stated that the appellant

could not continue to afford the cost of staying at her workplace and was unable to find a suitable residence in City A. The appellant's mother added that her daughter and granddaughter already had depression which was exacerbated by the situation. The appellant stated that although she loved her job in City A and her daughter did not want to leave her friends, she couldn't continue to stay at her workplace and made the decision to move to City B where she would have the much needed support of her family. The appellant stated that at no time did the ministry ask her if the safety of her or her daughter was in jeopardy.

The appellant submitted four (4) pages of documentation at the hearing.

- An Emergency/Ambulatory Care Clinical Record respecting her daughter's attendance at a hospital in City B in January 2016 due to suicidal ideation.
- Page 3 of 28 of the appellant's Self-report from her Persons with Disabilities Application (PWD application) in which she reports that she suffers from depression and anxiety which make it hard to complete her daily activities as she has no motivation.
- Pages 9 of 28 and 10 of 28 of the Physician Report from the appellant's PWD application. There is no identifying signature on either page. The appellant states that both pages were completed by her general practitioner in City B. The physician diagnoses the appellant with depression and bereavement as of July 2015 and writes that the appellant "had to move in with sister in order to provide shelter + safety for her children."

The ministry objected to the admission of the documentation on the basis that it was not before the ministry at the time it made its reconsideration decision. While the documents were not before the ministry at reconsideration, they are consistent with the appellant's previous testimony that she and her daughter suffered from depression. Therefore, the panel admitted the documents in accordance with section 22(4) of the Employment and Assistance Act as information in support of the information before the ministry at reconsideration.

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## PART F – Reasons for Panel Decision

### Issue under appeal

The issue under appeal is whether the ministry decision that the appellant was not eligible for a moving supplement because the circumstances of her move were not any of the eligible circumstances set out in section 57(2) of the EAR was reasonably supported by the evidence or a reasonable application of the legislation.

### Relevant Legislation – section 57(2) of the EAR

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

**57** (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 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;

### Ministry's position

The ministry argues that the circumstances of the appellant's move do not meet the requirements set out in section 57(2).

- There is no information that the appellant moved for a confirmed job, therefore, she is not eligible under section 57(2)(a) which allows for a moving supplement for a family unit to move anywhere in Canada if a recipient in the family unit has arranged confirmed employment that will significantly promote the financial independence of the family unit, and the recipient is required to move to begin that employment.
- The appellant moved within the same province, therefore, she is not eligible under section 57(2)(b) which allows for the provision of a moving supplement to move to another province or country if the family unit is required to move to improve its living circumstances.
- The appellant did not move within or to an adjacent municipality or unincorporated area because her rented residential accommodation is being sold or demolished and a notice to vacate has been given, or the residential accommodation has been condemned, therefore she is not eligible under section 57(2)(c).
- The appellant did not move within or to an adjacent municipality or unincorporated area and has not provided confirmation of her previous shelter costs, therefore she is not eligible under section 57(2)(d).
- While the appellant's request was to move from one area of BC to another, which is one requirement for eligibility under section 57(2)(e), the appellant did not indicate any imminent threat to the physical safety of herself or her daughter. Therefore the minister is not satisfied that there was an imminent risk to any person in her family unit and she is not eligible under section 57(2)(e).

### Appellant's position

The appellant's position is that the ministry has not thoroughly looked at the information provided respecting the reason for the move which she argues establishes that she moved for the physical safety of her and her daughter.

### Panel Decision

The panel finds that the information before the ministry establishes that the appellant's move was not for confirmed employment, to another province or country, or within or to an adjacent municipality or unincorporated area. Further, the appellant has not argued that any of these circumstances apply to her move. Therefore, the panel finds that the ministry reasonably concluded that the appellant is not eligible for a moving supplement under section 57(2)(a)-(d) of the EAR.

The appellant does, however argue that her request for a moving supplement meets the requirements of section 57(2)(e) as she moved from City A to City B for the physical safety of both her and her daughter.

While there is no dispute that the appellant moved to another area in BC, thereby meeting one requirement of paragraph (e), the move must also have been required to avoid an “imminent threat to the physical safety” of a person in the family unit. That is, there must be a threat to physical safety that necessitates a move to another area to avoid that threat and that threat must be imminent. This would include the circumstances where relocation to another area was required because a person in the same home or community was threatening the physical safety of a member of the family unit. In the circumstances of this case, the appellant and her daughter suffer from ongoing mental health problems. However, “health” and “safety” are not synonymous. That the legislators intended a distinction between “health” and “safety” is reflected by the fact that eligibility for other benefits, including crisis supplements and health supplements, is contingent upon an impact on the health of an applicant. The panel concludes that the intention of the language in paragraph (e) is to help protect the physical safety of an applicant who is facing an imminent threat by providing funding for a move to another area in order to provide a safe, or at least safer, physical distance from the threat. While it is understandable that the appellant would choose to relocate so that she and her daughter could benefit from the support of family given the difficult circumstances following the death of her fiancé, the panel finds that the ministry has reasonably determined that the information does not establish that the move was required to avoid an “imminent” threat to the physical safety of the appellant or her daughter and that the appellant is not eligible for a moving supplement under paragraph (e).

In conclusion, the panel finds that the ministry’s determination that the appellant is not eligible for a moving supplement because the requirements of section 57(2) of the EAR are not met is a reasonable application of the legislation in the circumstances of the appellant and confirms the reconsideration decision.