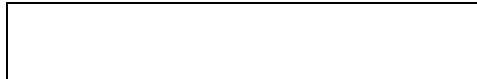




PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision of February 2, 2016 in which the ministry denied the appellant's request for a crisis supplement for moving costs because it found that the appellant did not meet the 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 Disability Regulation (EAPWDR), Section 55(2)

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PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

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

- The appellant is a sole recipient of disability assistance.
- A Shelter Information Form submitted in July 2014 indicating the appellant had been residing at her former residence since July 2014 and her share of the rent was \$431.50 per month.
- On January 7, 2016 the appellant provided a Shelter Information Form confirming a new residence for \$625.00 per month effective February 1, 2016. The appellant requested and was denied a moving supplement.
- On January 9, 2016 the appellant provided a copy of the eviction notice issued to her and her roommate. The notice indicated the existing Order of Possession would be executed on February 1, 2016 by the Bailiff if she had not vacated the premises.
- The appellant submitted a Request for Reconsideration on January 29, 2016 in which she submitted:
 - Her rent increased to \$664.00 per month, increasing her share of the rent would be \$461.25 plus utilities;
 - She is not moving by choice but has been issued an eviction notice for reasons she disputes;
 - She is moving shared accommodations to having accommodations on her own where the rent is \$625 including utilities;
 - She takes many medications for mental and physical health issues.
- The appellant provided the following documentation with her Request for Reconsideration:
 - A Notice to End Tenancy dated March 5, 2015 requiring that the appellant vacate the premises by April 30, 2015.
 - A Dispute Resolution Services Decision dated April 15, 2015 cancelling the eviction
 - A Notice to End Tenancy dated May 26, 2015 requiring that the appellant vacate the premises by June 30, 2015..
 - A medication history from her pharmacy dated June 22, 2015.
 - A copy of her written submission to the Residential Tenancy Branch dated July 28, 2015 detailing her concerns regarding the eviction notice.
 - A Notice of Rent Increase for her former residence dated July 28, 2015, effective November 1, 2015.
 - A Dispute Resolution Services Decision dated July 29, 2015 ordering the appellant to vacate the premises not later than August 31, 2015.
 - A bill dated December 15, 2015 for \$92.97 that includes charges for phone and TV cablevision.
 - A letter from the Resident Manager dated January 19, 2016 requesting that the appellant vacate the residence by January 31, 2016. The letter indicates that the monthly rent is \$922.50 plus an insurance fee of \$15.00.
 - A Shelter Information Form dated January 6, 2016 for occupancy beginning February 1, 2016 for \$625.00 per month and requiring a security deposit of \$312.50.

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- A receipt for \$487.25 dated January 21, 2016 for 'use and occupancy' at the appellant's new place of residence.

The ministry completed its reconsideration on February 2, 2016.

Admissibility of New Information

The appellant filed a Notice of Appeal dated February 9, 2016, which was received by the Employment and Assistance Appeal Tribunal on February 15, 2016. The appellant provided a three page written submission in which she explained why she disagrees with the ministry's decision to deny her a moving supplement because her shelter costs have not been reduced. The appellant itemized her monthly expenses which represent her portion of expenses she shared with her roommate: rent (\$461.25), a late fee for December (\$12.50), monthly insurance fee (7.50), hydro (\$24.00), phone (\$27.60). She stated that she pays the full amount of the monthly cable charge (\$59.00). The appellant stated that her total cost was \$598.22 for the month of January.

The appellant stated that prior to moving to her shared accommodation, she lived by herself and paid her rent and all the bills by herself. Her rent at that apartment was increased to \$664.00 per month excluding hydro, phone and television. The rent at her new location is \$625.00 including heat, hot water and hydro which is cheaper than \$664.00.

The cost of her move at \$30.00 per hour was \$990.00 which took her life savings.

The panel determined the additional documentary evidence that is part of the Notice of Appeal was admissible under s. 22(4) of the EAA as being in support of the information before the Minister at reconsideration and provides more information on his situation.

PART F – Reasons for Panel Decision

The panel notes that in the Applicable Legislation section of the ministry's decision, the *Employment and Assistance for Persons with Disabilities Regulation Section 55* is listed but in the Reconsideration Decision section, the *Employment and Assistance Regulation Section 57(2)* is listed. The criteria for eligibility is the same in both Regulations. The panel will refer to the correct legislation.

The issue in this appeal is the reasonableness of the ministry's reconsideration decision of February 2, 2016 which held that the appellant is not eligible for a crisis supplement for moving costs because she did not meet the requirements of Section 55(2) of the Employment and Assistance for Persons with Disabilities Regulation.

The following legislation applies to the appellant's circumstances in this appeal.

Employment and Assistance for Persons with Disabilities Regulation

Division 3 - Supplements - Family Unit Eligible for Disability Assistance or Hardship Assistance

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;

The Appellant's Position

The appellant argues that her move was not voluntary; she was forced to move by a court order and the ministry is being unreasonable in not paying her moving expenses. Both she and her roommate have mental health issues and can no longer live together.

She is now living by herself and her monthly rent which includes phone and hydro is \$625.00, less than she paid when she last lived by herself which was \$664.00 plus utilities. Her position is that, comparing the cost of her living expenses when she last lived by herself to where she is now living by herself, her shelter costs have reduced.

The appellant stated that she gave the ministry office all her bills to copy but they didn't copy the hydro bill so it was not taken into consideration when working out the difference in her total shelter costs.

The appellant further argued that it is a wonder that she managed to find a basement suite that is cheaper than the apartment she had when she last lived alone (before her shared accommodation). Regarding the cost of the move, the appellant stated that it cost her \$30.00 per hour for a total of \$990.00. She wrote: "Surely the ministry can't expect that I pay for all this by myself. This as the cheapest mover I could find. The next cheapest movers cost \$45.00 per hour."

Ministry's Position

The ministry's stood by its decision at reconsideration and clarified how shelter costs are calculated in accordance with Schedule A of the EAPWDR, Section 5.

The ministry took into consideration the appellant's actual shelter costs including rent and utilities (hydro and the rental of one basic residential single-line phone.) Cablevision and insurance costs would not have been taken into consideration because they are not permitted as actual shelter costs under Section 5.

If two or more family units share the same place, the actual shelter costs are divided by the number of persons occupying the place of residence. The information before the ministry at the time of the appellant's Request for Reconsideration was her rent amount divided by two, which equals \$461.20 and her phone amount of \$27.60. Although the appellant notes she also paid hydro, her hydro information was not available to the ministry at the time of the reconsideration decision. However, the ministry concludes that even if her hydro cost information had been available at the time of the reconsideration decision, her actual shelter costs would still have been less than her shelter costs at \$625.00 at her new accommodation.

The Panel's Conclusion

As the appellant moved within or to an adjacent municipality, only sections 55(2)(c) and (d) of the EAPWDR apply; that moving costs are required because where she was living was being sold, demolished or condemned, or that as a result of the move, her shelter costs would be significantly reduced. The appellant in this circumstance is making her argument under section 5(2)(d) – that her shelter costs would be reduced.

In reviewing appellant's submissions in her Request for Reconsideration and her Appeal, the panel notes that the appellant has presented an argument that her current expenses as a person living

alone are reduced from when she last lived alone.

The ministry must consider shelter costs between the current accommodation and the last place of residence, not living circumstances – such as whether living alone or with a roommate.

When calculating shelter costs, if two or more family units share the same place, the actual shelter costs are divided by the number of persons occupying the place of residence which in this case is two people. Cablevision and insurance costs cannot be taken into consideration because they are not permitted as actual shelter costs under Section 5.

The appellant itemized and totaled her shelter costs at her shared accommodation (\$598.22) and compared them to her current monthly rent (\$625.00), and included cablevision and insurance.

Even with those costs factored in, the shelter costs in her new location represent an increase over shelter costs at her shared accommodation.

The Panel's Decision

The panel finds that the ministry reasonably determined that the appellant's shelter costs in her new accommodation increased. Thus, the panel finds that the Ministry's decision to deny the appellant a crisis supplement for moving costs was a reasonable application of the legislation and supported by the evidence in the circumstances of the appellant.

Therefore, the panel confirms the Ministry's decision.