



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated March 16, 2016, wherein the Ministry determined that the Appellant is not eligible for a supplement for moving costs. The Ministry found that the Appellant did not provide confirmation that her shelter costs would be reduced as required under s.55(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and did not receive the minister's approval prior to incurring moving costs as required under s.55(3).

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities (EAPWDR) section 55

## PART E – Summary of Facts

Information before the minister at reconsideration included:

- A copy of a receipt in the Appellant's name dated February 26, 2016 from a moving company in the amount of \$446.25.
- A copy of a quote from a moving company, undated, in the amount of \$446.25.
- A copy of a quote from a moving company to the Ministry in the Appellant's name dated January 27, 2016 in the amount of \$598.50.
- A copy of a note from a physician dated January 28, 2016 in the Appellant's spouse's name stating that he requires an apartment with an elevator as he has difficulty with stairs.
- A copy of a Shelter Information form in the Appellant's name dated February 6, 2016 with a rental start date of March 1, with no entry for total rent.
- A copy of a Notice of Rent Increase in the Appellant's name dated October 30, 2014, showing the new rent as \$890 per month.
- A Shelter Information form in the Appellant's and her spouse's names dated October 7, 2013 showing monthly rent as \$860.00.
- The Appellant's Request for Reconsideration dated March 15, 2016

The Appellant submitted a copy of a Notice of Rent Increase in her spouse's name with her Notice of Appeal to the Tribunal. It is dated February 1, 2016 and shows the new rent at the Appellant's former address to be \$915.81 per month. The Ministry agreed that the sole issue on which the Appellant's request for a supplement for moving costs was denied was failure to provide confirmation of rent increase before her request could be approved. The Panel admitted this document under section 22(4) of the Employment and Assistance Act as it is written testimony in support of the records that were before the Ministry at reconsideration. The Ministry stated in the Reconsideration Decision that confirmation of rent increase was required before the Appellant's request could be approved.

At the hearing the Appellant stated that she and her husband have completed Grade 8 and Grade 6 respectively and reading comprehension is difficult for both. She stated that her husband's physician had advised him to move to an apartment with an elevator due to his arthritis and that the move took place on February 26 because the landlord said he had to prepare the apartment for new tenants. The Appellant stated that the rent was to be raised to \$915 per month at her current apartment and she found one with an elevator for \$900 that is closer to her husband's work, and advised the Ministry on February 9, although the form she provided did not list the amount of the rent. She stated that she received a Notice of Rent Increase, but lost it and had to obtain another. She stated that she obtained two estimates for the move and submitted them to the Ministry in advance, and when the moving date arrived she paid the movers with her grocery money, and then submitted the receipt to the Ministry. In response to questions from the Panel the Appellant stated that she was not certain she was going to move until she found a suitable apartment in the first few weeks of February. She stated that she has moved before with approval but she "put things off" and misplaced the notice of rent increase. When she located it, she sent it to the Tribunal.

The Ministry responded that prior approval is needed in order for moving expenses to be paid, according to s.55 of the Regulation, and the Ministry needs to compare the old rent with the new, then if the rent is lower, the applicant is asked to obtain quotes for moving. The Ministry stated that the Appellant was asked for confirmation of the rent when they advised that she was planning to move on February 16, and she was given the information necessary to provide the Ministry with moving quotes. The Ministry stated that they received confirmation of the rent of \$900 per month plus utilities at the new location on February 16, however did not receive confirmation of a rent increase at the Appellant's current residence. In response to questions from the Panel, the Ministry stated that the procedure was explained to the Appellant several times.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry decision that the Appellant is not eligible for a supplement for moving costs. The Ministry found that the Appellant did not provide confirmation that her shelter costs would be reduced as required under s.55(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and did not receive the minister's approval prior to incurring moving costs as required under s.55(3).

Legislation

*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;

(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 [*assignment of 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.

The Appellant's position is that she complied with the requirements for a moving supplement and has now shown that the rent at the new location is lower than her previous residence.

The Ministry position is that the Appellant did not submit verification of lower rent, therefore there was insufficient evidence to approve her request based on a rent reduction and approval was not given to the Appellant in advance of incurring moving costs.

The Panel notes that according to the Reconsideration Decision the Appellant approached the Ministry on January 18, 2016, well in advance of her proposed move, and was advised to obtain rental confirmation when she obtained a new residence. The Appellant submitted two estimates for the move and confirmation of the rent at her new residence. She did not submit the notice of rent increase at her former residence because it was lost, but she did advise the Ministry orally that the rent was being increased at her current apartment. The Ministry was aware of this because they reminded the Appellant to submit it.

The requirements of s.55 EAPWDR are that a move must be for specific circumstances, one of which is a move to an adjacent municipality if shelter costs are significantly reduced, which applies to the Appellant in this appeal. Another requirement is that there are no resources available to the family unit, which is not in dispute, and that the supplement be for the least expensive mode of moving. The Appellant submitted two estimates for the move, one of which was significantly lower. The reconsideration decision at the last line states that the Appellant "has not provided this information [the confirmation of rent increase] to date". The Ministry acknowledged that they were advised by the Appellant in early February that she planned to move, she was asked for estimates for moving and confirmation when she found a new apartment. The Appellant was asked to provide confirmation of a rent increase "before the request could be assessed". The Appellant advised the Ministry that she had this information; however it was lost or misplaced.

The Ministry and Appellant were aware that the Regulation requires that a new residence be less expensive. The Appellant advised the Ministry that the new rent would be lower, but lost or misplaced the notice of rent increase that demonstrated this. As the Panel has admitted the information required for approval of her request for a supplement for moving costs and previously satisfied all other conditions, including submitting two estimates for moving costs, the Panel notes that all of the requirements for approval have been satisfied.

The Panel rescinds the Ministry decision as not reasonably supported by the evidence.