

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development and Social Innovation (the ministry) dated 26 April 2016 that denied the appellant's request for a supplement to cover the costs of moving. The ministry determined that the appellant's request did not meet all of the legislative criteria set out in section 57 of the Employment and Assistance Regulation, and in particular found that she did not receive the ministry's approval before incurring her moving costs, as required under subsection (3)(b).

The ministry determined that the appellant's request met the other criteria set out in section 57 of the Regulation: the move met one of the "moving to/for the purpose of" reasons listed in subsection (2) and there are no resources available to the family unit to cover the costs of the move, as set out in subsection (3)(a).

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 57

PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of the following:

1. From the ministry's files, with relevant documents:
 - The appellant is a recipient of income assistance with 2 dependent children.
 - On 07 April 2016 the appellant submitted a request to be reimbursed for moving costs. She submitted a residential tenancy agreement for her new residence effective 01 April 2016. She also submitted a rental truck receipt totaling \$80.17 and gas receipts for \$75.00 dated 30 March 2016. Her request was denied.
 - On 11 April 2016, the appellant requested reconsideration of this decision. The ministry received her signed request for reconsideration on 15 April 2015.
2. There is no copy of the appellant's signed Request for Reconsideration in the Record of the Ministry Decision. At the hearing, the parties read out the appellant's submission set out under Reasons for Request (see below). The comments on her file from 07 April 2016 state, "Client understands that normally moving costs supplements are not reimbursed after the fact that she feels that she had no choice she would have potentially lost the place."

The appellant's Notice of Appeal is dated 09 May 2016. Under Reasons, she writes:

"I disagree based [on] the facts that I did in fact move to a cheaper place so they would've paid for my moving expenses if time allowed & I did not have enough time to get proper approval beforehand else I would have."

At the hearing, the appellant explained the circumstances surrounding her move, substantially along the same lines as that described in her submission at reconsideration. To summarize:

- Her lease at her former residence was for six months, ending 31 March 2016, and then month to month. Her former landlord gave notice to end tenancy on 01 March 2016, with the premises to be vacated by 31 March 2016. This notice was unexpected and the appellant spent some time researching whether it was legally permissible.
- The appellant found it difficult to find new accommodation that was "pet friendly." Ultimately, on 24 March 2016 she found suitable accommodation with lower rent, but pets were not allowed. On 28 March 2016, the landlord's son advised her that she had been accepted as a tenant.
- As a result, she had very little time to move from her previous residence into the new one. Considering that the ministry would require three quotes from moving companies, she tried to find any moving company that could handle her move, but none was available that could do it by the end of the month. She also had to spend time finding someone to take over care of her dog. Finally, she found she had to resort to renting a truck, but the truck rental company had a truck available for only one day, 29/30 March 2016.
- In the process, the appellant had no time to contact the ministry concerning the move. Moreover, paying for the move and the damage deposit for her new residence resulted in her having to use the child tax benefit payment meant for her children's needs. Making her financial situation worse, the ministry refused a supplement to advance the \$600 she had to pay for a security deposit at her new residence. As well, there were some initial problems with the laundry facility at her new residence, requiring her to expend additional funds to clean laundry

elsewhere. All this left her with no money for basic needs and having to resort to seeking crisis supplements from the ministry.

The balance of the appellant's presentation went to argument (see Part F, Reasons for Panel Decision, below).

The ministry stood by its position at reconsideration. The ministry representative noted that the issue of a request for the ministry to pay a security deposit was a matter of a separate Request for Reconsideration pending adjudication.

The panel finds that the information provided in appellant's testimony at the hearing is in support of the information and records before the ministry at reconsideration, as it covers the same ground as that in the appellant's submission at reconsideration. The panel therefore admits this information as evidence pursuant to section 22(4)(b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision to deny the appellant's request under section 57 of the EAR for a supplement to cover the costs of moving was reasonable. More specifically, the issue is whether the following ministry determination was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant:

- that the appellant did not receive the ministry's approval before incurring her moving costs, as required under subsection (3)(b) of section 55,

The relevant legislation is from 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;
- (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 20 [*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 positions of the parties

The position of the ministry, as set out in the reconsideration decision, is that the appellant had 30 days prior to her move date to notify the ministry that she was required to move and would need a moving supplement. Despite knowing that the ministry does not reimburse for moving costs [not

previously approved], she did not advise the ministry of her upcoming move or request a moving supplement. From the date that the appellant stated she was accepted as a tenant, she had three days to connect with the ministry and request a moving supplement; however she did not make contact with the ministry to advise of her move or to request a moving supplement until six days after the move was completed. The ministry found that she did not receive the ministry's approval prior to incurring the costs of her move; therefore her request does not meet the requirements set out in section 57(3)(b) of the EAR.

The appellant's position, as explained in her Notice of Appeal and at the hearing, is that the ministry simply does not understand, or chooses to ignore, the realities of a recipient of income assistance having to move at short notice. Given the time it takes for the ministry to make decisions, it is unrealistic to have expected her to contact the ministry and obtain approval for cost projections for truck rental and fuel in the short time between when she signed the lease and arranged for the truck rental, while still having to pack and find someone to care for the dog, all the while looking after her children. She argues that even if she had had sufficient time, and if there had been moving companies prepared to provide quotes for ministry approval for packing and moving her belongings, the cost to the ministry would have been much greater than what she incurred with her last-minute truck rental. She submits that, given the circumstances surrounding her move, the ministry's decision is unreasonable.

Panel decision

Subsection 3 of section 57 of the EAR states that "A family unit is eligible for a supplement under this section **only if** (b) a recipient in the family unit receives **the minister's approval before incurring those costs.**" From the evidence and the appellant's submissions at reconsideration and at the hearing, it is clear that the appellant incurred the truck rental and fuel costs for her move on 30 March 2016. This is well before she submitted her request for a moving supplement on 07 April 2016. The panel has reviewed the legislation and finds that the minister does not have the discretion to approve payment of a moving supplement other than as prescribed in section 57.

Accordingly, the panel finds that the ministry's decision to deny the requested moving supplement was reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.