



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 22 April 2016 that denied the appellant a moving supplement under Section 55 of the *Employment and Assistance for Persons With Disabilities Regulation* because the ministry determined that the appellant did not meet all of the required criteria set out under Section 55(3). Specifically, the ministry determined that the appellant had the resources available to pay for the move, and that he did not receive the minister's approval before incurring the moving costs.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) - Section 55

PART E – Summary of Facts

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

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

1. The Residential Tenancy Agreement for the appellant's former residence, dated October 1, 2012, showing the occupancy period, the amount of monthly rent and the security deposit and other terms and conditions of the rental agreement.
2. A Notice of Rent Increase for the appellant's former residence, dated September 26, 2013, showing the rent increase amount and the effective date of the rent increase.
3. A BC Housing Management Commission Application for Rent Subsidy Form, dated February 17, 2016, showing the appellant's income and assets at the time of application, the amount of subsidized rent payable and the amount of the rent subsidy.
4. A receipt for moving expenses dated February 29, 2016.
5. The appellant's Request for Reconsideration dated April 13, 2016.

The Ministry had the following evidence at the time of the reconsideration according to the information provided in the "Summary of Facts" section of the Reconsideration Decision:

- On February 22, 2016 the appellant presented the ministry with verification of a subsidized monthly rental amount under the terms of a new rental agreement beginning on March 1, 2016 and requested a moving supplement.
- The ministry stated that at that time a ministry worker told the appellant that he would have to submit quotes for moving costs.
- On March 7, 2016 the appellant submitted a receipt dated February 29, 2016 in the amount of \$330 for the cost of the move and a request for reimbursement. The receipt indicates that the amount owing was paid in cash.
- On March 14, 2016 the ministry stated that a ministry worker contacted the appellant by phone and advised him that he was ineligible for the moving supplement because he moved before receiving the ministry's prior approval.

Admissibility of New Information

The appellant filed a Notice of Appeal dated May 4, 2016, which was received by the Employment and Assistance Appeal Tribunal on the same date. Included with the Notice of Appeal were copies of two rent receipts in the amount of \$820 each for the months of January and February 2016 signed by the rental property manager for the appellant's former residence.

As no ministry representative was present at the hearing there was no opportunity to determine whether or not the ministry had any objection to the admission of the additional information as evidence. While the ministry had accepted the fact that there was a significant reduction in rent at the new accommodation in its reconsideration decision, the rent receipts identified exactly how much less the rent was at the new location. The panel determined the additional documentary evidence that is part of the Notice of Appeal was admissible under s. 22(4)(b) of the EAA as being in support of the information before the minister at reconsideration.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's decision which denied the appellant's request for a supplement for moving costs. The ministry found that the appellant did not meet the requirement of Section 55(3)(a) of the EAPWDR (that there are no resources available to cover the costs), nor was the requirement of Section 55(3)(b) of the EAPWDR met (that the minister's approval must be received before the costs are incurred).

Legislation

The following section of the *EAPWDA* applies to this appeal:

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

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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

Ministry's Position

The ministry's position is that to be eligible for a moving supplement, a family unit must meet one of the criteria listed in Section 55(2) of the EAPWDR. Section 55(2)(d) states that the minister may provide a moving supplement for a move "within a municipality or unincorporated area or to an adjacent municipality or incorporated area" if the family unit's shelter costs would be significantly reduced as a result of the move. The move in this instance was within a municipality. As the ministry accepts that the family unit's shelter costs would be significantly reduced as a result of the move, the ministry acknowledges that this condition has been met.

Furthermore, the ministry's position is that to be eligible for a moving supplement, a family unit must also meet the requirements under Section 55(3) of the EAPWDR. Section 55(3)(a) states that a family unit is only eligible for a moving supplement if there are no resources available to the family unit to cover the cost for which the supplement may be provided. The ministry concludes that as the cost of the move was paid for in cash, it appears that the appellant had the resources to pay for the move. Therefore the ministry concludes that this condition has not been met.

In addition, Section 55(3)(b) of the EAPWDR states that a family unit is only eligible for a moving supplement if a recipient in the family unit receives the minister's approval before incurring the moving costs. As the appellant incurred the moving costs on February 29, 2016 and did not submit a request for approval of the moving costs to the ministry in advance of that date, the minister's approval was not provided before the costs were incurred, and as a result the ministry contends that the requirement set out in EAPWDR Section 55(3)(b) was not met.

Appellant's Position

In the Request for Reconsideration the appellant stated that he was an immigrant who did not speak English well and that he needed assistance in translating the ministry's requirements. He said he did not realize that he had to have the approval of the ministry before incurring the moving costs to be eligible for the moving supplement.

In the appellant's Notice of Appeal dated May 4, 2016 he indicates that he disagrees with the Ministry's decision as for the last two months at his former address he had to pay twice the amount of rent indicated by the Ministry because his roommate moved out at the end of December. As a result

his shelter costs were actually reduced by \$472, significantly more than the amount calculated by the ministry.

Panel's Findings

The panel notes that the appellant did not provide evidence that he did not have the resources available to cover the cost of the move, nor did he provide evidence to demonstrate that he had received the ministry's approval of the moving supplement in advance of the move on February 29, 2016.

The panel finds that the ministry's determination that the appellant was ineligible for a moving supplement under Section 55(3) of the EAPWDR because he had the resources to pay for the move and because he did not receive the minister's approval before incurring the moving costs was both reasonably supported by the evidence and is a reasonable application of the Regulation.

The panel therefore confirms the ministry's decision.