



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“Ministry”) reconsideration decision dated June 1, 2016 in which the Ministry found the Appellant was not eligible for a supplement for moving or storage costs because she did not meet any of the criteria for a moving supplement under Section 55(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) or any of the criteria under EAPWDR Section 57 for a crisis supplement.

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Sections 55 and 57.

## PART E – Summary of Facts

Information before the minister at reconsideration included:

1. A copy of a bank deposit slip dated April 28, 2016 in the Appellant's landlord's name in the amount of \$600.00.
2. A copy of a Notice to Debtor, undated and unsigned,
3. A copy of a Writ of Possession date stamped April 29, 2016 by the New Westminister Supreme Court Registry allowing the Appellant's landlord to take possession and sell the Appellant's goods.
4. A copy of a Requisition date stamped April 29, 2016 by the New Westminister Supreme Court Registry.
5. A copy of an affidavit date stamped April 29, 2016 by the New Westminister Civil Registry affirming that the Appellant's landlord served a copy of an order of possession to the Appellant by registered mail.
6. A copy of an Order dated April 20, 2016, issued by Dispute Resolution Services of the Residential Tenancy Branch ordering the Appellant to vacate within two days.
7. The Appellant's Request for Reconsideration signed May 24, 2016, in which the Appellant wrote that she takes full responsibility for her actions and is aware that she was late paying her rent for the month of April, that she was unaware that she had been served with papers because she was not home, so she never saw the notice, and that she paid the rent owing on April 28. The Appellant wrote that when the bailiff showed up, she was unprepared and all of her belongings were taken to a storage facility.
8. A copy of a Residential Tenancy Agreement signed May 18, 2016.

At the hearing, the Appellant stated that she admits she paid the rent late and that it is her fault. However, she stated that she did pay her rent on April 28 and had in fact paid an additional \$15.00 as confirmed by the bank deposit slip. The Appellant advised that the landlord said nothing about the matter and bailiffs arrived unexpectedly on May 2 to remove all of her possessions to storage. The Appellant stated further that the apartment was sold and the new owner wanted to move in.

The Appellant stated that she was told that her goods would be held for 3 weeks and it would cost \$300 to have them released. The Appellant advised that she subsequently called movers to obtain quotes. She stated that her goods have now been moved to another storage facility where they are being held, without a time limit, until she pays the moving and storage costs. The Appellant said that at this time she is living in an unfurnished apartment. The Appellant stated that her apartment was sold and that this was the real reason for her eviction. The Appellant advised that the Ministry usually paid her rent directly to the landlord; however they did not do so for the month of April. The Appellant said she heard from the landlord on April 3 that the rent had not been paid. The Appellant stated that she paid the April rent with her May shelter portion of her disability assistance. The Appellant denied that she received the rent cheque directly from the Ministry for her April rent. She further denied that she had endorsed the cheque made out to her previous landlord in the amount of \$585.00 for her April shelter.

The Ministry submitted a copy of both sides of a cheque dated March 23, 2016 payable to the Appellant's landlord in the amount of \$585.00, with the stamp of a "cash mart" on the reverse side of the cheque. The Panel admitted this document under section 22(4) of the Employment and Assistance Act as written testimony in support of the information and records that were before the minister when the decision being appealed was made. The Ministry referred to this document in the statement of the Decision to be Reconsidered section of the Request for Reconsideration.

The Ministry responded that they were advised by the Appellant on May 9 that she was being evicted from her apartment. The Ministry determined that the cheque issued in March for April rent had been cashed; however, the landlord stated that he did not receive the rent in question. The Appellant submitted a copy of the Residential Tenancy Branch (RTB) decision dated April 20, an eviction notice dated April 29 and a receipt for rent paid in late April. The Appellant had requested moving and storage costs and a crisis supplement for shelter. As the Appellant did not meet the legislative criteria, her request was denied.

In response to questions from the Appellant, the Ministry stated that the Appellant's April disability assistance was held due to an eligibility review, and that her April disability assistance would be released to her once the review was completed on March 29. The Ministry advised that the cheque payable to the Appellant's landlord was given to the Appellant directly on March 29, and the endorsement on the cheque appears to be similar to the Appellant's signature. The Ministry stated that the cheque was not sent directly to the landlord because of the eligibility review. The Ministry stated that they received no information about the Appellant's apartment being sold.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry decision which found the Appellant was not eligible for a supplement for moving or storage costs because she did not meet any of the criteria for a moving supplement under Section 55(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) or any of the criteria under EAPWDR Section 57 for a crisis supplement.

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.

### **Crisis supplement**

**57** (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and

(b) the minister considers that failure to meet the expense or obtain the item will result in

(i) imminent danger to the physical health of any person in the family unit, or

(ii) removal of a child under the *Child, Family and Community Service Act*.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(3) A crisis supplement may not be provided for the purpose of obtaining

(a) a supplement described in Schedule C, or

(b) any other health care goods or services.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit;

(b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of

(i) the family unit's actual shelter cost, and

(ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;

(c) if for clothing, the amount that may be provided must not exceed the smaller of

(i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and

(ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit

for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

The Appellant's position is that she was forced to move because her apartment was sold and she therefore qualifies for moving costs. In addition, she argued that she was unaware she was going to be evicted until the bailiffs arrived because the notice that had been affixed to her apartment door had been removed before she saw it. She argued that she paid the rent arrears before the end of the month. She argued further that her damage deposit was not returned, she has no resources to pay for moving her goods out of storage or for the moving costs, and she has nothing because all of her belongings are in storage. The Appellant argued that because she has a prosthetic leg, her health is endangered if she does not have access to a leg sleeve.

The Ministry's position is that the Appellant was issued her shelter allowance directly in person before the end of the previous month and she failed to pay her April rent. The Ministry argued that the Appellant does not qualify for a moving cost supplement because she does not meet any of the legislative criteria.

Section 55, EAPWDR includes the following criteria under which a supplement for moving costs may be provided:

- a move to anywhere in Canada for employment,
- a move to another province or country required to improve a family unit's living circumstances,
- a move within or to an adjacent municipality because the family unit's rented accommodation is being sold or demolished and a notice to vacate has been given or has been condemned,
- a move within or to an adjacent municipality if shelter costs would be significantly reduced,
- a move is required to avoid imminent threat to physical safety and reasons associated with hearings related to child protection.

In regard to s. 55(1), the Panel finds that the Ministry reasonably determined that the Appellant was not moving due to employment, to avoid an imminent threat to her physical safety, to improve living circumstances, because her current accommodation is being sold, demolished or condemned or because her shelter costs would be significantly reduced as her rent at her previous residence was \$585 and her current rent is \$715. The Panel notes that the Appellant did not argue at any time before the hearing that she was evicted because her apartment was to be sold. In addition, she did not provide any evidence to demonstrate that this in fact had occurred. The documents provided include an affidavit from the Appellant's landlord's agent which shows that an order for possession was sent to the Appellant by registered mail, contrary to the Appellant's assertion that it was affixed to her apartment door. The eviction notice was issued in the name of the Appellant's landlord.

With respect to the Appellant's payment of her April rent, the Panel accepts the Ministry's evidence that the cheque for shelter was given directly to the Appellant before the end of the previous month. The Appellant did not make any arguments previously about receiving this cheque and had stated in the Request for Reconsideration that she "takes full responsibility for my actions and am aware that I was late paying my rent for the month of April".

While the Appellant argued that the real reason she was evicted was due to her previous landlord's decision to sell his apartment, there was no evidence presented to support this argument. Furthermore, the eviction

process was based on the non-payment of her April rent which was supported by the Residential Tenancy Branch's Order of Possession, dated April 20, 2016, in favour of the landlord.

The Panel finds that the Ministry reasonably determined that the Appellant did not meet any of the criteria set out in EAPWDR s. 55(1) for approval of moving costs and reasonably denied the Appellant's request.

The Ministry argued that the Appellant does not qualify for a crisis supplement because the expenses she incurred were not unexpected, there is insufficient evidence to support a probability that failure to obtain the items in storage would result in imminent danger to her health, and she was issued funds directly to pay her shelter costs. Consequently, she had resources to meet the expenses in question. With respect to the Ministry's determination that the Appellant was not eligible for a crisis supplement, the Panel finds that the Ministry reasonably determined that the Appellant did not meet the legislative criteria set out in EAPWDR s.57 for a crisis supplement. The Panel confirms that the need to pay rent is not an unexpected expense. Additionally, the failure to obtain the personal items in storage had not been demonstrated by the Appellant to result in imminent danger to her health and the Appellant was issued a shelter allowance before the April rent was due, therefore she had the resources available to her.

The Panel finds that the Ministry reasonably determined that the Appellant did not meet the criteria for approval of a crisis supplement.

The Panel therefore confirms the Ministry decision. The Appellant was not successful on appeal.