

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of July 18, 2016 that determined the appellant was not eligible for a moving supplement under section 55 Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) because she did not meet all the criteria under section 55(2) EAPWDR.

The ministry was satisfied the appellant met the criteria under section 55(2)(e) – avoid an imminent threat to her physical safety; and under section 55(3)(b) – ministry’s approval required before incurring costs - but was not satisfied that she did not have resources available to her to cover the moving costs as set out in section 55(3)a) of the EAPWDR legislation.

PART D – Relevant Legislation

Employment and Assistance For Persons with Disabilities Regulation (EAPWDR), section 55

PART E – Summary of Facts

The appellant did not attend the hearing. The panel being satisfied that the appellant was notified of the date, time and location, the hearing proceeded in accordance with section 86(b) *Employment and Assistance Regulation*.

The evidence before the ministry at the time of reconsideration:

- Shelter Information dated June 8, 2016;
- Vehicle rental receipt dated June 5, 2016 in amount of \$411.25;
- Appellant's Residential Tenancy Agreement dated June 6, 2016 and beginning July 1, 2016;
- Invoice for \$100.00 dated April 22, 2016 to cover moving costs;
- Damage deposit dated April 20, 2016 in amount of \$360.00;
- One month Notice to End Tenancy effective May 5, 2016;
- Letter dated June 30, 2016 from Victim Assistance worker relating the appellant situation;
- Request for Reconsideration dated July 4, 2016;

The appellant is a single recipient of disability assistance who accesses ministry services via a third-party administrator (PA). On March 14, 2016 the ministry received an email from PA requesting a moving supplement for the appellant for safety concerns. The appellant advised she had a history with her daughter-in-law's ex-boyfriend and that he was recently released from a correctional facility. She stated he came to her residence (Res #1), did some property damage and the police were involved. On April 25, 2016 the ministry attached several documents to the appellant's file including; an eviction notice effective May 5, 2016 due to the property damage, several moving quotes, a security deposit for a new residence (Res #2) and several police file numbers. For reasons beyond the appellant's control she could not move into (Res #2) and returned and stayed at Res #1. The appellant submitted her moving costs of \$100. The ministry determined that because the appellant had exhausted her personal funds and did not have friends or family who could assist financially, the minister was satisfied the appellant did not have resources available to cover her moving costs of \$100.00 and issued her a crisis supplement for \$100.00. On May 6, 2016 a ministry supervisor reviewed her request for a moving supplement and denied it pending confirmation of her circumstances. Between May 5 and June 2, 2016, numerous attempts were made by the ministry to verify that she was moving to avoid an imminent threat to her physical safety.

On June 8, 2016 a different PA advised the ministry that the appellant's son had rented a moving van and moved the appellant's personal belongings to another community (Res #3) and requested reimbursement for the moving expenses. The PA provided a receipt dated June 5, 2016 for \$411.25 covering a two-day vehicle rental for the moving van, a Shelter Information form indicating the date of rental was June 1, 2016, three moving quotes covering the move from Res #1 to Res #3, and a Residential Tenancy Agreement (Res #3) that indicated the start date for renting RA #3 was July 1, 2016. The PA indicated he did not have the details of the move but did confirm the appellant had visible injuries.

The minister was satisfied that all the appellant's moves from Res #1 to Res #2 and back; and, from Res #1 to Res #3 were made to avoid an imminent threat to her physical safety.

The ministry determined the appellant was not eligible for a moving supplement from Res #1 to Res #3 because the rental receipt for the moving van was prepaid indicating that she had resources to cover her moving costs.

On the Notice of Appeal dated August 10, 2016 under Reasons for Appeal, the appellant wrote, “Was beaten, my face black, blue and purple. Girlfriend picked me up right after hospital. Son borrowed money & went down to get my belongings. Son not working, borrowed money, can show pictures of my face.”

The panel finds the information provided in the Notice of Appeal provides additional details of the imminent threat and further explains the PA’s response to the ministry on June 9, 2016. The panel finds this information is admissible as evidence under section 22(4) *Employment and Assistance Act* (EAA) as it is in support of the information and record before the ministry at reconsideration.

At the hearing the ministry, in addition to relying on the facts in the reconsideration decision, stated that on May 6, 2016 the appellant’s request for a moving supplement from Res #1 to Res #2 (for her initial move) was denied pending further information from the police. The ministry could not explain why the appellant was issued a crisis supplement to cover the moving expenses for her initial move as the payment of a crisis supplement for moving didn’t make sense and further, that the ministry had not approved the moving supplement. The ministry stated the appellant had been issued a crisis supplement earlier that month but that had no reference to her intended move but was the reason for accepting that the appellant did not have any resources to pay for her move. The ministry stated the appellant is still eligible for that \$100 to cover her cost for that move as the supplement has not been paid. The ministry stated that under the circumstances the appellant was making every effort to rectify her situation to make herself safe, that the ministry considered her “in flight” from one location to another to be safe and the move to Res #3 should have been considered an extension of the initial move which the ministry deemed was to avoid imminent danger to physical health. The ministry also explained the additional information the ministry needed on May 6 was the letter dated June 30, 2016 giving the ministry authority to speak with the police. The ministry stated that if the appellant had advised the ministry that her son didn’t have the money to rent a truck and had to borrow the money, that the ministry would not ask him to submit bank statements but would just accept the appellant’s word and pay the bill. The ministry could not explain why the moving costs (\$100) to cover her move within her community were covered because she did not have resources and then within a month she had to move again (Imminent threat) and the moving costs (moving van rental) for that move were not covered because she is deemed to have resources because she submitted a prepaid receipt for a moving van.

The panel finds the information provided by the ministry is in support of the information and record that was before the ministry at the time the reconsideration decision was made and is admissible as evidence under section 22(4) of the EAA.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision of July 18, 2016 that determined the appellant was not eligible for a moving supplement under section 55 of the EAPWDR because she had resources available to her to cover the moving costs and therefore did not meet the legislated criteria under section 55(3)(a) EAPWDR, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The legislation considered:

Supplements for moving, transportation and living costs

Section 55

(1) In this section:

"moving cost" means the cost of moving a family unit and its personal effects 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:

(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;

(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.

Resources Available to Cover Moving Costs – section 55(3)(a)- Res #1 to Res #3

Ministry's Position

The ministry's position is that to be eligible for a moving supplement the appellant must meet one of the legislated criteria set out in section 55(2) and **all** the legislated criteria set out in section 55(3) of the EAPWDR legislation. The ministry stated that the appellant met the criteria in section 55(2)(e) – move required to avoid an imminent threat to her physical safety – and met the criteria in section 55(3)(b) – receives minister's approval before incurring those costs – but **did not meet** the criteria in section 55(3)(a) – that there are no resources available to the family unit to cover the costs for which the supplement may be provided.

The ministry argued the appellant submitted a prepaid receipt for \$411.25 dated June 5, 2016 for a two-day rental of a moving van which confirmed the appellant had resources available to her to move her belongings from Res #1 to Res #3.

Appellant's Position

The appellant's position is that this situation is not her fault as she was forced to move. The appellant argued she planned to move at the end of April from Res #1 to Res #2 because she feared for her safety but because the ministry could not re-issue the rent cheque she could not stay at Res #2 and had to return to Res #1. The appellant argued that she was then beaten by person she was fleeing from (her daughter's ex-boyfriend), that her face was black, blue and purple. Her girlfriend picked her up after she was released from the hospital and her son, who is not working, borrowed the money to rent a moving van and came down to get her belongings. The appellant argued she did not have

resources to pay for the move (moving van) that the situation was not her fault.

Panel Decision

The evidence before the panel is that the appellant is a victim of domestic violence who was assaulted, hospitalized and when she was released she was moved by her son to his community to be safe. On June 9, 2016 the PA submitted several documents to the ministry - rental agreement and shelter information for Res #3, quotes from movers to move from Res #1 to Res #3 and, a receipt for the rental of the moving van for payment. At that time the ministry inquired with the PA about the appellant's move but the PA advised he did not have the details regarding her move but had evidenced the visibility of the appellant's injuries.

In the Reconsideration Decision the ministry deemed that all three moves met the criteria in section 55(2)(e) EAPWDR – required to move to avoid an imminent threat to physical safety. The ministry also deemed the appellant met the criteria in section 55(3)(b) – a recipient receives minister approval before incurring expenses but did not meet the criteria in section 55(3)(a) EAPWDR.

In reference to the appellant's resources – section 55(3)(a) EAPWDR the ministry argued that the appellant submitted a prepaid receipt for the rental of the moving van that demonstrated she had resources to cover her moving expenses. The appellant submits that her son is not working and had to borrow the money to rent the moving van as he did not have the financial resources either. The ministry did not argue with this position, and stated that had the appellant informed the ministry that her son did not have any funds to assist financially that the ministry would have accepted her statement.

The panel finds the ministry was not consistent in determining whether the appellant had the resources to cover her moving costs or not and therefore the panel finds the ministry decision was not reasonable. The evidence is that approximately one month earlier the ministry deemed the appellant did not have resources to cover her moving costs because she had been issued a crisis supplement and now one month later they deem she does have resources because she submitted a paid receipt for the rental of a moving van. The panel finds the time frame between the appellant's three moves and her hospital stay was very short and that her move to Res #3 was just a continuum of her initial move.

The ministry relied only on the receipt that indicated the van rental was prepaid to determine “the ministry was not satisfied there are no resources available to the appellant to cover the cost for the move”. There is no evidence that on June 9, 2016 the ministry requested further information from the PA regarding her move to explain the circumstances surrounding the rental of the moving van which may have led to a different determination.

The panel finds the evidence does not support the ministry's position that the appellant had resources available to cover her moving costs as: 1) the appellant's son had to borrow money to rent the moving van; 2) the ministry's statement at the hearing that if the appellant stated that her son did not have any money to pay for the van the ministry would not ask for his bank statements for confirmation; and 3) the ministry's previous decision to approve the \$100 moving costs for her initial move(s) which relied on the fact a crisis supplement had been issued to her earlier that month (on an unrelated matter) demonstrated to the ministry that she had exhausted her personal funds and did not have friends or family who could assist financially, 4) the decision was not consistent with the

rationale for the decision one month earlier based on the same circumstances.

The panel finds the evidence supports that the appellant was fleeing a situation where there was imminent danger to her physical health and her son came to her rescue, borrowed the money needed to rent a moving van and moved her to a location where she would be safe.

Therefore the panel finds the evidence does not support that the ministry's decision that the appellant had resources available to cover her costs to move from Res #1 to Res #3 was reasonable, and therefore was not a reasonable application of the legislation, section 55(3)(a) of the EAPWDR, in the appellant's circumstances.

The panel finds in favor of the appellant and rescinds the ministry's reconsideration decision.