

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated August 8, 2016 which held that the appellant was not eligible for a moving supplement because the circumstances of his move did not fall within any of the eligible circumstances as set out in Section 55(2) and the appellant had not received the minister's approval before incurring the costs of the move as set out in Section 55(3)(b) of the Employment and Assistance for Persons with Disabilities Regulation, (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 55.

PART E – Summary of Facts

With the consent of the parties, the hearing was conducted in writing pursuant to Section 22(3)(b) of the Employment and Assistance Act.

The following evidence was before the ministry at the time of reconsideration:

- The appellant's quote for moving costs forwarded on June 20, 2016, - a Standardized Household Goods Bill of Lading dated July 2, 2016, start time of 2:00 pm indicating a balance due of \$500 from a moving company.
- A Shelter Information for the appellant dated June 2, 2014 indicating the client's portion of rent per month of \$385 plus \$10 for phone.
- A Residential Tenancy Agreement dated July 1, 2016 indicating that the appellant will pay \$850 per month and also noting that a security deposit of \$425 must be paid by June 15, 2016.
- A Request For Reconsideration dated July 25, 2016 which included a submission from the appellant's advocate as well as a letter written by the appellant.

In the letter from the appellant, he states that the ministry will pay only \$375 towards his rent and that the additional monies would be coming from his personal support money. The appellant indicates that while knowing he would have to move due to his lease expiring, he spent 6 stress filled months trying to find suitable housing in a .05% vacancy rate environment. The appellant explains that his physical and mental health were waning, his personal safety and health were and still are in jeopardy and stress, suicidal ideology thoughts of relapse, all could end up as very costly. The appellant adds that homelessness is an imminent threat to his safety and employment from life on the street is harder to keep even if one finds it.

The appellant's advocate submits that she has been working with the appellant since February 2016 on his housing search as the appellant would be reaching the year limit of his tenancy on July 1, 2016. The advocate states that the appellant has struggled to gain independence for years while living in supportive or transitional housing and that he is unable to work yet manages to make ends meet. Additionally, the \$500 moving costs that the appellant has incurred have set him back both financially and mentally. The advocate indicates that the appellant has sought out community resources, "the society" to help with his living situation which includes applying for and receiving funding in order to live in a unit which although more expensive is clean, safe and constant.

In his Notice of Appeal dated August 12, 2016, the appellant states that he has moved to accommodation cheaper than the ministry had paid for at his previous accommodation and that homelessness poses a certain safety risk.

The ministry stood by their reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision that the appellant was not eligible for a moving supplement because the circumstances of his move were not any of the eligible circumstances as set out in Section 55(2) and the appellant had not received the minister's approval before incurring the costs of the move as set out in Section 55(3)(b) of the EAPWDR was reasonably supported by the evidence or a reasonable application of the legislation.

Relevant 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.

Ministry's Position

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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) and Section 55(3) of the EAPWDR.

Section 55(2) (a) For a moving supplement to be issued under this subsection, the family unit must be moving anywhere in Canada and have confirmed employment if the employment would significantly promote financial independence. No information was submitted to indicate that the appellant is moving for a confirmed job, therefore, this section does not apply.

Section 55(2)(b) For a moving supplement to be issued under this subsection, the moving costs must be required to move to another province or country in order to improve living circumstances. While the ministry does not dispute that the appellant is moving to improve his living circumstances by securing stable and independent housing, the appellant is requesting to move within the same province/country. This section does not apply.

Section 55(2) (c) A moving supplement issued under this subsection requires that the move be "within a municipality or unincorporated area or to an adjacent municipality or incorporated area" due to the family unit's rented residential accommodation being sold, demolished, condemned or subject to a notice to vacate. The appellant has indicated that he is moving because his lease was up at his previous accommodation, not that it was being sold, demolished or condemned; therefore, this section does not apply.

Section 55(2) (d) A moving supplement issued under this subsection requires that the move be "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 appellant is moving from his previous address where he paid \$385 per month to another address in the same municipality where he pays \$425 and \$425 is subsidized for him. While the appellant has stated that the ministry now will pay only \$375 monthly instead of \$385, the ministry has reviewed the appellant's file and determined that this is not accurate and that the ministry is sending \$425 directly to "the society". "Furthermore, the appellant's shelter costs refer to the actual costs associated with his shelter and are not based on what portion the ministry sends direct to the supplier. A review of the appellant's shelter documents shows that utilities are included at both residences. Given that the appellant's shelter costs will not be significantly reduced as a result of his move, this section does not apply.

Section 55(2)(e) For a moving supplement to be issued under this subsection, moving costs must be required to move to another area within British Columbia to avoid an imminent threat to physical safety. The appellant did not move to avoid an imminent threat to his physical safety, but rather because his lease had expired. While the appellant's position is that if he did not move to his current accommodation he would be homeless and risk a relapse which would negatively impact on his physical safety; the minister acknowledges that when a person's lease expires, they are required to leave their current accommodations and either move to new accommodations or risk homelessness, the issue of relapse and the subsequent potential threat to the appellant's physical safety is speculative and cannot be considered an imminent threat to his physical safety and as such, this section does not apply.

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.

The ministry accepts that the appellant does not have the resources available to him to cover the costs associated with his move; therefore, he should not be denied a moving supplement under Section 55(3) (a).

The housing outreach worker indicated that the appellant had already incurred the cost of the move; however, no information was received to indicate how the appellant paid for this move. As the request was denied by the minister on June 22, 2016; therefore, the appellant did not receive the minister's approval before incurring costs of his move, and as such, Section 55(3) (b) has not been met.

Appellant's Position

The appellant's position is that due to not having resources to cover his costs, he followed the regulations and applied for the supplement before he moved. With his lease expiring, the appellant argues that he was given no choice but to accept whatever housing he could find; otherwise, he was at imminent risk of homelessness. "Because of this, he did not have the time or resources to wait for a response from the ministry before moving." The appellant states that he is moving to accommodation that is less rent than his previous housing and that the additional monies for rent are coming from his personal support money. He argues that his old unit was \$385, paid for with the ministry's help, while his new unit is \$850 a month with receipt of \$375 from the ministry and the society paying \$425 with the appellant paying the remaining \$50 out of pocket. The appellant also argues that homelessness is an imminent threat to his safety and that this move will improve his living circumstances.

Panel's Findings

As specified in Section 55(2) a moving supplement is only provided should the applicant meet one of the listed circumstances. The panel finds that the evidence establishes that the appellant's circumstances are not defined under (a) and (b). The appellant did not provide information that his residence was being sold, demolished or condemned, rather he was moving because his lease was expiring, therefore not meeting the requirement under(c). The panel notes that while the appellant argues that he pays \$425 towards his rent and that \$425 is subsidized for him, a review of the ministry file indicates that \$425 is sent directly to "the society" by the ministry. The panel finds that with the ministry paying \$425 and "the society" paying \$425, the appellant's shelter costs will not be significantly reduced as a result of his move, therefore the criteria under (d) was not met. As the appellant did not move to avoid an imminent threat to his physical safety, but rather because his lease had expired, the panel finds that the criteria under (e) was not met. Subsequently, the panel finds that the ministry's determination that the appellant was ineligible for a moving supplement under Section 55(2) of the EAPWDR because he did not meet the applicable moving supplement eligibility criteria was both reasonably supported by the evidence and is a reasonable application of the Regulation.

While sympathetic to the appellant's situation, the panel finds that the appellant's reasons for moving are not the circumstances under which the ministry may provide a moving supplement pursuant to

Section 55(2) of EAPWDR.

Further the panel notes that to be eligible for a moving supplement, a family unit must also meet the requirements under Section 55(3) of the EAPWDR. The panel finds the minister denied the appellant's moving costs on June 22, 2016 and the appellant did not seek approval before incurring the costs of his move on July 2, 2016; therefore, the panel finds that this requirement as set out in Section 55(3) (b) was not met.

The legislation specifies that in order to be eligible for a moving supplement a request must meet one of the criteria set out in Section 55(2) and Section 55(3) of the EAPWDR. The panel therefore confirms the ministry's decision. The appellant is not successful in his appeal.