

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of September 7, 2016 wherein the ministry determined the appellant was not eligible for a moving supplement because she did not meet the requirements set out in section 55 *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

The ministry was not satisfied that:

- the appellant is moving to another province or country to improve her living circumstances as set out in section 55(2)(b) EAPWDR, or
- the appellant was required to move to avoid an imminent threat to her physical safety as set out in section 55(2)(e) EAPWDR; or
- the appellant did not have resources available to her to meet her need for storage while she looked for alternative accommodations as set out in section 55(3) EAPWDR or
- the appellant needed assistance with the least expensive appropriate mode of moving as set out in section 55(4) EAPWDR.

## 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 of the hearing, the hearing proceeded under section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the ministry at the time of reconsideration:

- Various estimates for storage costs;
- Bank withdrawal receipt dated April 18, 2016;
- Three pages of notes relating to the circumstances surrounding the bank withdrawal receipt;
- Hand written moving estimate dated August 8, 2016 for \$800.00;
- Storage rates of \$98.00 per month from moving company dated August 9, 2016;
- Request for Reconsideration dated August 26, 2016 with a 5 page attachment outlining the appellant's position.

The appellant is a single recipient of disability assistance. Her rent is paid direct to her landlord. The ministry file indicates the landlord has not cashed the August or September 2016 rent cheques. On August 8, 2016 the appellant contacted the ministry requesting assistance with funds to put her personal effects in storage. The ministry (EAW) inquired why she needed storage and she advised the EAW she had decided to move for reasons of personal safety. The appellant stated she had left her belongings at her former residence and needed the storage costs covered while she looked for and secured new living accommodation. On August 17, 2016 the appellant submitted a quote for storage fees and a quote from a friend for moving expenses. The appellant advised the ministry that for the past two years (her estimate) her place was constantly broken into resulting in loss of food items and personal information. The appellant stated the residential manager was aware of the problem but didn't take any action to secure the lock on her door. The appellant also referred to another incident that had occurred earlier in the year wherein personal papers had been torn up and a box of cereal ripped open and the contents strewn about. The appellant provided a police file number covering that incident. The ministry determined they did not have sufficient information to deem that the appellant's physical safety was in imminent danger and denied her request for a moving supplement.

At the hearing the appellant was represented by an advocate. The advocate stated that he had discussed this matter with the appellant and the appellant now understands and agrees with the ministry's decision not to provide her with moving assistance. The advocate stated the appellant understands that the ministry was following the legislation and knows that at the time she did not meet any of the criteria required for moving assistance. The advocate stated that the appellant terminated her rental agreement at her former residence on August 31, 2016 and made arrangements for that landlord to store her personal belongings until she could find a new place.

The ministry relied on the facts in the reconsideration decision.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision of September 7, 2016 that determined the appellant was not eligible for a moving supplement under section 55 of the EAPWDR because she did not meet the legislated criteria under section 55 EAPWDR, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The ministry was not satisfied that:

- the appellant is moving to another province or country to improve her living circumstances as set out in section 55(2)(b) EAPWDR, or
- the appellant was required to move to avoid an imminent threat to her physical safety; or
- the appellant did not have resources available to her to meet her need for storage while she looked for alternative accommodations as set out in section 55(3) EAPWDR or
- the appellant needed assistance with the least expensive appropriate mode of moving.

The legislation considered: EAPWDR

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;

"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:

(b) moving costs required to move to another province or country, if the family unit is required to move to improve its living circumstances;

(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.

### **Moving to another province or country to improve your living circumstances – section 55(2)(b)**

#### Ministry's Position

The ministry's position is that the appellant was not leaving the province or this country and therefore did not meet the legislated criteria in section 55(2)(b) EAPWDR.

#### Appellant's Position

The appellant's position is that she wanted to improve her living situation and it was her decision to move. The appellant agreed she was not leaving the province or country.

#### Panel Decision

The evidence supports the ministry's position and the appellant acknowledged she did not meet the

legislated criteria set out in section 55(2)(b) EAPWDR.

The panel finds the ministry's decision not to provide the appellant with a moving supplement because she did not meet the legislated criteria set out in section 55(2)(b) EAPWDR was reasonable.

**Moving cost to avoid an imminent threat to physical safety – section 55(2)(e);**

**Ministry's Position**

The ministry argued that the appellant's reason for moving was because she had been having problems with the other tenants where she was living and approximately 4 months prior she reported that someone had unlawfully entered her apartment, did some damage and prior to leaving had ripped open a cereal box and had strewn its contents about. The minister stated that an imminent threat implies that without assistance for a move that she would be at urgent risk for harm. The ministry argued that the appellant's position does not support that she needs to move to avoid an imminent threat to her personal safety.

**Appellant's Position**

The appellants' position is that she no longer felt safe where she was living and needed to move and so she decided to move to another city. The appellant agreed at the hearing that she did not feel that she was in imminent danger at any time.

**Panel Decision**

The evidence is that the appellant stayed at her previous location for four months after her place had been unlawfully entered and reported to the police. The panel finds the evidence does not support that the appellant needed to move because she was avoiding an imminent threat to her personal safety.

The panel finds the ministry reasonably determined that the appellant was not eligible for a moving supplement to avoid an imminent threat to her personal safety as set out in section 55(2)(e) EAPWDR.

**No Resources Available – section 55(3);**

**Ministry's Position**

The ministry argued that the ministry was paying the rent at her former residence to maintain her residence while the appellant was in her new city (location) looking for new accommodations. The ministry's position is that the appellant did not provide any evidence that she is no longer living at nor needs her former residence. The ministry argued they were not satisfied that the appellant did not have resources available to her to meet her need for storage while she sought new accommodation.

**Appellant's Position**

The appellant did not offer any evidence to argue the ministry's position.

**Panel Decision**

The evidence supports the ministry's position as the appellant's rent at her former residence was being directly paid by the ministry when the appellant decided to move to another city to find accommodation. There is no evidence before the panel that the appellant did not pay her own

transportation and other travel expenses during this transition. The rent on her residence where her personal effects were located was being paid by the ministry which clearly indicates she knew where her possessions were located and was satisfied they were secure.

The panel finds the ministry reasonably determined the appellant had resources available to cover her costs for which the moving supplement was requested and therefore did not meet the legislated criteria set out in section 55(3) EAPWDR.

**Least Expensive Appropriate Mode of Moving – section 55(4) EAPWDR**

**Ministry's Position**

The ministry position is that the appellant stated she would like to move to another location, however, the ministry argued the appellant did not demonstrate why she needed to move to another city and not just move to another place within her community. The ministry argued the appellant submitted several estimates, including an estimate of \$800, from a friend, and a “local” move would be significantly less expensive than moving to another city several miles away.

**Appellant's Position**

The appellant did not offer any argument to the ministry's decision.

**Panel Decision**

The panel finds the ministry reasonably determined that the appellant did not meet the legislated criteria under section 55(4) EAPWDR because her intended move to another city was not the least expensive appropriate mode of moving as she had not demonstrated that she could not move to another location within her community.

**Conclusion**

As the ministry reasonably determined that the appellant had not satisfied the legislated criteria set out in section 55 EAPWDR, the panel finds that the ministry's decision to deny the appellant a supplement for moving and/or transportation is a reasonable application of the legislation supported by the evidence. The ministry's decision is confirmed.