

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 September 20, 2016 that denied the appellant’s request for a supplement for moving costs because the ministry determined that the appellant did not meet the eligibility requirements under section 55(2) of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR). Specifically, the ministry determined that:

- a. the appellant had not submitted any information to indicate that he, or a member of his family unit, was moving to a confirmed job;
- b. the appellant was moving within the same province so was not eligible to move in order to improve living circumstances;
- c. the appellant was not moving within or to an adjacent municipality; and,
- d. the appellant did not identify any immediate threat to the physical safety of any person in his family unit.

The ministry did accept that the appellant satisfied the requirements of section 55(3) of the EAPWDR since the ministry accepts that the appellant does not have the resources to cover the costs of his move and there is no indication that the appellant had moved without receiving ministry approval before incurring moving costs.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that the appellant was properly notified, the hearing proceeded pursuant to Section 86(b) of the Employment and Assistance Regulation.

The documentary evidence before the ministry at reconsideration included the following:

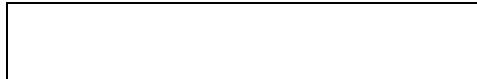
1. A *Notice to Vacate* form dated August 30, 2016 confirming that the appellant intends to vacate his accommodation in community A on September 30, 2016.
2. A *Residential Tenancy Agreement* dated September 1, 2016 listing the appellant as tenant for accommodation in community B.
3. An *Intent to Rent* form dated September 20, 2016 listing the appellant as tenant for accommodation in community B.
4. The appellant's *Request for Reconsideration* dated and signed by the appellant on September 8, 2016 that states the reasons for requesting reconsideration are as follows: "I am moving to (community B) from (community A) to live closer to my brother to help each other with our health issues. Also, our new apartment is cheaper (\$700 per month) compared to \$875.00 per month. My wife also has better job aspects (sic) in the (community C) area. Also I have found a doctor in (community C). When in (community A) I didn't have a doctor. For these reasons and better healthy lifestyle my moving costs should be covered – family supports, job aspects, cheaper rent."

The appellant's *Notice of Appeal* was signed and dated on September 27, 2016 and stated that the reason for the appeal was that "My wife got a job at (name of employer) in community C. Attached is copy of her contract. We moved for cheaper rent, job, health. We also got a doctor (name and phone number of medical clinic in community C)." The appellant also submitted an employment contract dated September 21, 2016 between the appellant's spouse and an employer in community B, and a note confirming that the appellant has an appointment with a doctor in community C.

At the hearing, the ministry reviewed the *Reconsideration Decision* noting the criteria contained in section 55(2) of the EAWPDR. The ministry explained that the appellant did not satisfy subsection 55(2)(a) because the letter of employment submitted by the appellant was dated September 21, 2016 which was after the *Reconsideration Decision* was made.

In response to a question from the panel, the ministry indicated that there was no indication that the appellant had failed to meet the requirements of subsection 55(4) of the EAWPDR. In addition, the panel noted that the appellant had submitted his request for the supplement for moving expenses on August 9, 2016 but did not receive the ministry decision until September 2, 2016. The ministry explained that this delay was likely the consequence of a delay in receiving needed information from the appellant such as estimates of moving expenses.

The panel noted that the appellant submitted two new pieces of evidence with his *Notice of Appeal*: an offer of employment dated September 21, 2016 addressed to the appellant's spouse, and; a note confirming that the appellant has an appointment with a doctor in community C. The panel noted that the appellant had stated in his *Request for Reconsideration* that his wife had better job prospects in the (community C) area, and that he had found a doctor in community C. Accordingly, the panel determined that the new evidence was in support of information before the ministry at the time of



Reconsideration and therefore accepted this new evidence under section 22(4) of the *Employment Assistance Act*.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision that determined that the appellant was not eligible for a supplement for moving costs, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that:

- a. the appellant had not submitted any information to indicate that he, or a member of his family unit, was moving to a confirmed job;
- b. the appellant was moving within the same province so was not eligible to move in order to improve living circumstances;
- c. the appellant was not moving within or to an adjacent municipality; and,
- d. the appellant did not identify any immediate threat to the physical safety of any person in his family unit.

The relevant legislation is as follows:

From the EAWPDR:

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 fulfilin 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.

Appellant's Position

The appellant argues that his wife has obtained employment in community C. In addition, he argues that he moved for cheaper rent, job, and health. Finally, he argues that he moved because he was able to get a doctor in community C whereas he did not have a doctor in community A.

Ministry Position

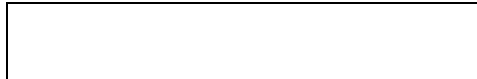
The ministry argues that while the appellant's wife has obtained employment in community C this does not meet the requirement of subsection 55(2)(a) of the EAWPDR because the employment was obtained after the move whereas the legislation requires that the appellant (or another member of the family unit) is required to move to begin that employment. The ministry argued that the appellant does not meet the requirement of subsection 55(2)(b) of the EAWPDR because the appellant was not moving to another province or country. The ministry argued that the appellant does not meet the requirement of subsection 55(2)(c) of the EAWPDR because the appellant did not submit any evidence to suggest that he is moving as a result of his (former) accommodation being sold, demolished or condemned. The ministry argued that the appellant does not meet the requirement of subsection 55(2)(d) of the EAWPDR because community B is not in a municipality that is within or adjacent to the municipality in which community in found. Finally, the ministry argued that the appellant does not satisfy the requirement of subsection 55(2)(e) of the EAWPDR because the appellant did not identify any imminent threat to the physical safety of any person in the family unit.

Panel Decision

The panel notes that the date on the letter of offer of employment to the appellant's spouse is after the date of the Reconsideration decision. Accordingly, the letter of employment was not available to the ministry at the time of Reconsideration. Consequently, the panel concluded that the ministry reasonably determined that the appellant did not satisfy subsection 55(2)(a) of the EAWPDR. The panel notes that the appellant did not move to another province or country. Consequently, the panel concluded that the ministry reasonably determined that the appellant did not satisfy subsection 55(2)(b) of the EAWPDR. The panel notes that the appellant provided no information to suggest that he was moving as a result of his (former) accommodation being sold, demolished or condemned. Consequently, the panel concluded that the ministry reasonably determined that the appellant did not satisfy subsection 55(2)(c) of the EAWPDR. The panel noted that the appellant did not move within or to an adjacent municipality even though he argued that his shelter costs were significantly reduced. Consequently, the panel concluded that the ministry reasonably determined that the appellant did not satisfy subsection 55(2)(d) of the EAWPDR. Finally, the panel noted that the appellant submitted no information to identify an imminent threat to the physical safety of any person in the appellant's family unit. Consequently, the panel concluded that the ministry reasonably determined that the appellant did not satisfy subsection 55(2)(e) of the EAWPDR. The panel concluded that the ministry reasonably concluded that the appellant did not satisfy the requirements of subsection 55(2) of the EAWPDR.

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that



the ministry's determination that the appellant was not eligible to receive a supplement for moving costs was a reasonable application of the applicable enactment in the circumstances of the appellant.

The panel therefore confirms the ministry's reconsideration decision. The appellant was not successful in his appeal.