

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 February 1, 2017 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 she, or a member of her family unit, was moving to a confirmed job;
- b. the appellant did not identify any immediate threat to the physical safety of any person in her family unit.
- c. the appellant was moving within the same province so was not eligible to move in order to improve living circumstances;
- d. the appellant moved within or to an adjacent municipality but not because her accommodations had been sold, demolished or condemned;
- e. the appellant moved within or to an adjacent municipality but not because her shelter costs have been reduced.

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 *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* form dated September 15, 2016 confirming that the appellant must vacate her accommodation by September 25, 2016.
2. A *Decision by the Dispute Resolution Services of the Residential Tenancy Branch of the B.C. Office of Housing and Construction Standards* dated November 16, 2016 which concluded that the appellant's landlord was granted an order of possession and the appellant was required to vacate her accommodation.
3. A ministry *Shelter Information* form dated January 3, 2017 listing the appellant as tenant for shared accommodation with the appellant's share of the rent being \$375 per month.
4. The appellant's *Request for Reconsideration* dated and signed by the appellant on January 31, 2017 that states the reasons for requesting reconsideration are as follows: "*I am requesting reconsideration to secure moving funds because the items (there) are 6 boxes as well as two end table; Sorry 1 very large floor lamp, and a chest trunk for storage of memorabilia (or whatever). I do not have funds set aside to pay the lady for keeping them or to transport them. This is causing me stress. With my illness that is bad. It's bad because I suffer with the immunodeficiency virus. I have no strength left. The reason my neighbor had my things stored in her place all this time is because my landlord threw out all of my belongings with the writ of possession he obtained during an arbitration (for eviction) I had that didn't work out for me. So on the day the bailiff came I was completely unprepared. Please help me. Thanks.*"

The appellant's *Notice of Appeal* was signed and dated on February 11, 2017 and stated that the reason for the appeal was that "*The ministry stated that they did not feel that my request fell under legislation because 'I have already moved into my new address'. The only item I have in fact moved into my new address is myself. All of my belongings I have ever owned are still at my neighbour's in her hallway in limbo. She was told to move them immediately by management. I need my belongings.*"

At the hearing, the ministry reviewed the eligibility requirements in section 55(2) of the EAPWDR and noted that the *Reconsideration Decision* concluded that the appellant did not meet any of these requirements. The ministry also stated the appellant did not receive the minister's approval before incurring the moving costs.

In addition, the ministry stated that the appellant failed to meet the eligibility requirements in section 3(a) since the ministry claimed that the appellant had sufficient resources available to cover the moving costs. The panel notes that the *Reconsideration Decision* made no mention of whether the appellant satisfied the eligibility requirements for section 55(3) of the EAPWDR. Accordingly it concluded that this was new evidence.

The claim that the appellant did have resources to cover the costs of the move was associated by the ministry with the information contained in the *Decision by the Dispute Resolution Services of the*

Residential Tenancy Branch of the B.C. Office of Housing and Construction Standards dated November 16, 2016. In that report it provides information regarding the supplementary payments provided by the ministry to help the appellant (and her co-tenant) to “catch up” on the rental payments which had fallen behind. Accordingly, the panel determined that the new evidence regarding whether the appellant had the necessary resources to cover the cost of her move was in support of information before the ministry at the time of Reconsideration and therefore admitted 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 she, or a member of her family unit, was moving to a confirmed job;
- b. the appellant did not identify any immediate threat to the physical safety of any person in her family unit.
- c. the appellant was moving within the same province so was not eligible to move in order to improve living circumstances;
- d. the appellant moved within or to an adjacent municipality but not because her accommodations had been sold, demolished or condemned;
- e. the appellant moved within or to an adjacent municipality but not because her shelter costs have been reduced.

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 her belongings are being stored at the home of a former neighbor because the landlord had them removed and the appellant was completely unprepared. Additionally, the appellant stated in her *Request for Reconsideration* that she does not have the funds set aside to pay for either the storage of her belongings or to transport them to her present accommodation.

Ministry Position

The ministry argues that the appellant did not meet the eligibility requirements in section 55(2) of the EAPWDR to receive a moving supplement. Specifically, the ministry argued that:

- a. the appellant had not submitted any information to indicate that she, or a member of her family unit, was moving to a confirmed job;
- b. the appellant did not identify any immediate threat to the physical safety of any person in her family unit.
- c. the appellant was moving within the same province so was not eligible to move in order to improve living circumstances;
- d. the appellant moved within or to an adjacent municipality but not because her accommodations had been sold, demolished or condemned;
- e. the appellant moved within or to an adjacent municipality but not because her shelter costs have been reduced.

The ministry also argued that the appellant failed to satisfy the eligibility requirements of section 55(3) of the EAPWDR because the ministry claimed that the appellant had available resources to cover the costs of the move. The ministry pointed to the "Background and Evidence" statement in the *Decision by the Dispute Resolution Services of the Residential Tenancy Branch of the B.C. Office of Housing and Construction Standards* dated November 16, 2016. That statement reported that the appellant had fallen behind in paying her rent and that the ministry provided supplementary payments to the landlord to help the appellant "catch up in their rent. The report goes on to state that subsequently the appellant again fell behind in her rental payments and that the ministry would no longer assist. At the hearing, the ministry reported that the appellant had continued to receive income assistance during this period and since she was not paying rent the ministry concluded that her income assistance payments would be available to cover the cost of her move.

Panel Decision

The panel notes the ministry's arguments outlined in the *Reconsideration Decision* regarding whether the appellant meets the eligibility requirements of section 55(2) of the EAPWDR. Moreover, the panel notes that the appellant did not refute any of these arguments in either her *Request for Reconsideration* or her *Notice of Appeal* and therefore the facts as stated by the ministry are not in

dispute. Consequently, the panel concluded that the ministry reasonably determined that the appellant did not satisfy subsection 55(2) of the EAWPDR.

The panel notes that at the hearing the ministry argues that the appellant had not obtained prior approval of the minister as required under section 55(3)(c). But under section 24 of the *Employment Assistance Act* the panel is restricted to reviewing the *Reconsideration Decision*. Since the argument that the appellant did not obtain prior approval from the ministry was not contained in the *Reconsideration Decision* it is outside the mandate of the panel and will not be considered by the panel.

The panel reviewed the ministry's argument that the appellant did not satisfy the eligibility requirements of section 55(3)(a) because the ministry argued that the appellant had adequate resources to cover the costs of her move. The panel notes that the appellant claimed that she does not have adequate resources to cover these costs. Moreover, the panel notes that the ministry argument is based upon the assumption that since the appellant was not paying rent until she moved to her new accommodation in January 2016, she had available funds. But the panel notes that this is an assumption and the ministry has provided no evidence to support it. Further the appellant has stated she does not have adequate resources to cover moving costs. Consequently, the panel concluded that it was not reasonable for the ministry to conclude that the appellant had adequate resources to cover moving costs. The panel therefore rejects the ministry's argument that the appellant failed to satisfy the eligibility requirements for section 55(3)(a) 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 her appeal.