

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 May 16, 2017 in which the ministry denied the appellant a supplement for moving costs. The ministry held that the requirements of Section 55 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met. Specifically, to be eligible for a moving supplement a request must meet at least one of the criteria set out in Section 55(2) EAPWDR and meet all of the criteria set out in Section 55(3) EAPWDR. The ministry determined that the appellant's request for a moving supplement did not meet any of the criteria in Section 55(2) EAPWDR regarding the reason and circumstances of the move, and did not meet the criteria in Section 55(3)(b) which requires the minister's pre-approval for moving costs.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The evidence before the ministry at reconsideration was as follows:

The appellant is a single recipient of disability assistance.

April 18, 2017 - the appellant contacted the ministry to request assistance with a moving supplement.

April 21, 2017 – the appellant attended the ministry office and submitted 3 quotes for his move.

April 25, 2017 – the ministry reviewed the appellant’s request for a moving supplement and notes the following:

- the Notice to End Tenancy (eviction) is accompanied by a letter from the landlord stating rent was not paid for 3+ months, and
- notice for dispute resolution is scheduled for May 2, 2017, and
- previous rental expenses were \$400 per month including utilities, and
- new rental expenses are \$500 per month including utilities.

April 26, 2017 – the ministry advised the appellant that he has been deemed ineligible for a moving supplement as he does not meet the criteria, specifically, he is unable to demonstrate that the eviction was due to the family unit’s residence being sold or demolished and a notice to vacate for same was given, or that the rental unit has been condemned and the appellant’s shelter costs would be significantly reduced as a result of the move.

May 3, 2017 – the appellant requested a reconsideration of the ministry’s decision to deny the moving supplement stating that 1) the owner could not sell the property and decided to renovate, then sell, and 2) he has proof that he was paying his own hydro, and 3) the May 2, 2017 dispute resolution went 100% in his favor, and 4) he moved to his new address by the end of the 3rd week of April and paid moving costs of \$450 and 5) wants to recover these expenses as he is totally broke.

Additional Submissions:

May 29, 2017 – the appellant writes in the Notice of Appeal – “I have showed house is being sold... it’s also being totally renovated... house is not up to code... landlord has been threatening... not safe. Have showed no money is owed to landlord (Tenancy Board Report).

At the hearing:

The appellant provided the following information:

1. he lived in the residence for 3 years paying \$400 per month rent plus hydro and hot water, and
2. the landlord placed the property for sale on June 21, 2016, but it did not sell because there were building code issues that needed to be resolved, (in response to questions, the appellant indicated that the home had been taken off the market by the date of his move), and
3. even though the residence was only 7 years old, the landlord needed to renovate the residence in order to place it for sale. There were electrical problems and the residence had only one point of access with no secondary point of entry/exit, and
4. electrical problems in the residence caused various electrical circuits to fail resulting in loss of

food when electricity to two freezers failed and caused about \$500 of lost food, and

5. he was being harassed by his landlord and felt threatened and unsafe living there, and
6. he needed to move and in April 2017 provided all information requested by the ministry including quotes for the move, and
7. the landlord issued an eviction notice for unpaid rents which the appellant took to the resolution services of the Tenancy Board, and
8. he states that the landlord was evicting the appellant based on false claims made by the landlord, and
9. he called for police assistance several times when moving out of the residence at the end of April because the landlord had changed the locks before the appellant could remove his personal belongings, and
10. he moved to a new residence on May 1, 2017 at a rental rate of \$500/month including utilities, and
11. on May 2nd, the resolution services of the Tenancy Board ruled that the appellant did not owe anything to the landlord and all claims for unpaid rent and utilities were removed. This report was delivered to the ministry on May 3rd by the appellant, and
12. he paid the moving costs of \$450 out of his disability assistance benefits received in April 2017 and now he is behind in rent payments at his new place of residence.

The ministry relied on the information contained in the reconsideration decision and clarified that they did receive the May 2nd Tenancy Board report.

Admissibility of Additional Information

The information before the ministry at reconsideration did not include any evidence related to police presence or any related threats from the appellant's landlord. In accordance with section 22(4)(a) of the *Employment and Assistance Act (EAA)*, this portion of the appellant's argument is not admissible because it was not evidence and records that were before the ministry when the decision being appealed was made. The panel admits the remaining testimony under section 22(4)(b) of the EAA as evidence that corroborates the appellant's circumstances, including his reasons for moving, as described in the reconsideration record.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry reasonably denied the appellant a supplement for moving costs. The ministry held that the requirements of Section 55 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met. Specifically, to be eligible for a moving supplement a request must meet at least one of the criteria set out in Section 55(2) EAPWDR and meet all of the criteria set out in Section 55(3) EAPWDR. The ministry determined that the appellants request for a moving supplement did not meet any of the criteria in Section 55(2) EAPWDR regarding the reason and circumstances for the move and did not meet the criteria in Section 55(3) which requires the minister's pre-approval for moving costs.

Relevant Legislation:

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.

Appellant's position

The appellant argues that he needed to move because there were building code issues that needed to be resolved before the place could be sold, including electrical problems in the residence, and he was being harassed by his landlord and felt threatened and unsafe living there. He argues that in April 2017, he provided all information requested by the ministry including quotes for the move, and although the landlord issued an eviction notice for unpaid rents, the landlord was evicting the appellant based on false claims made by the landlord, and he called for police assistance several times when moving out of the residence and on May 2, 2017 the resolution services of the Tenancy Board ruled that the appellant did not owe anything to the landlord and all claims for unpaid rent and utilities were removed. He argues that his new rental rate of \$500/month including utilities is less than what he was paying at his previous residence because the utilities are cheaper. He paid the moving costs of \$450 out of his disability assistance benefits received in April 2017 and not he is behind in rent payments at his new place of residence and he cannot understand why the ministry refuses to help him pay the moving costs.

Ministry position

Section 55(2) EAPWDR stipulates that a supplement for moving costs may only be provided for the following specific locations and circumstances:

- Section 55(2)(a) states the minister may provide a moving supplement to move anywhere in Canada for reasons of confirmed employment and financial independence. The ministry noted that the appellant has not submitted any information to indicate that he moved for a confirmed job, and therefore argues that Section 55(2)(a) does not apply.

- Section 55(2)(b) states that the minister may provide a moving supplement for reasons of improved living circumstances. While the minister accepts that the appellant is moving to improve his living circumstances by having better access to medical services, support workers, and family, it is noted that the appellant is requesting to move within the same province/country and therefore, the ministry argues that Section 55(2)(b) does not apply.

- Section 55(2)(c) states the ministry may provide a moving supplement where the family unit's current accommodation is being sold, demolished or condemned. The ministry noted the appellant submitted an MLS posting which was printed on June 22, 2016 as evidence that his landlord was evicting him to sell the property; however, the appellant wrote in his Request for Reconsideration that his landlord was intending to sell the property but he could not sell it and decided to renovate and then sell the house. The ministry noted that the eviction notice the appellant submitted clearly indicates the appellant was being evicted due to non-payment of rent and argues that without any updated information to indicate the residence is currently being sold, there is insufficient information to determine that the appellant was required to move as a result of his accommodations being sold, demolished or condemned and; therefore, Section 55(2)(c) does not apply.

- Section 55(2)(d) states the ministry may provide a moving supplement if the family unit's shelter costs would be significantly reduced as a result of the move. The appellant moved from a location where his portion of the rent was \$400 to his new residence where his portion of the rent is \$500. While the appellant indicated that his hydro will cost less at his new residence, the ministry noted that he has not submitted any documentation to confirm this. Given that the only verifiable shelter cost is his rent, and his rent is increasing by \$100 per month, the ministry finds the appellant's shelter costs will not be significantly reduced as a result of his move and; therefore, the ministry argues that Section 55(2)(d) does not apply.
- Section 55(2)(e) states the minister may provide a moving supplement when a move is required to avoid an imminent threat to physical safety of any person in the family unit. The ministry noted that the appellant did not identify or provide evidence of any imminent threat to his physical safety and as such, the ministry argues that Section 55(2)(e) does not apply.
 - a) Section 55(3) EAPWDR sets out further eligibility requirements for a moving supplement, including no resources available to the family unit to cover the costs of the move and the requirement for the minister's approval before incurring moving costs.

The ministry noted that the appellant has requested reimbursement for his moving costs of \$450 which he states were paid from his disability assistance. The minister accepts that the appellant's disability assistance funds were already allotted to other expenses such as rent, utilities and food, and therefore, the minister accepts that the appellant does not have alternate resources to cover the cost of his move and Section 55(3)(a) has been met.

However, while the appellant indicated he paid \$450 with his April 26, 2017 disability assistance to move to his new residence, the ministry noted he did not have approval for a moving supplement at the time he incurred the costs associated with the move. And the ministry therefore argues that Section 55(3)(b) has not been met.

Panel Decision

Section 55(2) states "Subject to subsections (3) and (4) EAPWDR, 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:

- Section 55(2)(a) states the minister may provide a moving supplement 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." The appellant has not submitted any information to indicate that he moved for a confirmed job, and therefore the panel finds that the ministry was reasonable in determining that Section 55(2)(a) EAPWDR does not apply.
- Section 55(2)(b) states that the minister may provide a moving supplement for a family unit to move to another province or country if the family unit is required to move to improve its living circumstances. The panel finds that the ministry was reasonable in determining that the appellant is moving to improve his living circumstances by having better access to medical

services, support workers, and family, however it is noted that the appellant is requesting to move within the same province/country and therefore, the panel finds that the ministry reasonably determined that Section 55(2)(b) EAPWDR does not apply.

- Section 55(2)(c) states the ministry may provide a moving supplement if moving costs are required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area if the family unit's current accommodation is being sold, demolished or condemned. The appellant submitted an MLS posting which was printed on June 22, 2016 as evidence that his landlord was evicting him to sell the property; however, the appellant wrote in his Request for Reconsideration that his landlord was intending to sell the property but he could not sell it and decided to renovate and then sell the house. The eviction notice the appellant submitted clearly indicates the appellant was being evicted due to non-payment of rent. Without any updated information to indicate the residence is currently being sold, and considering the appellant's testimony at the hearing, indicating that the house had been taken off the market at the time of the appellant's move, the panel finds that the ministry was reasonable in determining that there is insufficient information to confirm that the appellant was required to move as a result of his accommodations being sold, demolished or condemned; therefore, Section 55(2)(c) EAPWDR does not apply.

- Section 55(2)(d) states the ministry may provide a moving supplement if a family unit is 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. The appellant moved from a location where his portion of the rent was \$400 to his new residence where his portion of the rent is \$500. While the appellant indicated that his hydro will cost less at his new residence, he has not submitted any documentation, such as a copy of his hydro bills, to confirm this. The panel finds that the ministry was reasonable in determining that the only verifiable shelter cost is the cost of his rent set out in the Shelter Information form. As his rent is increasing by \$100 per month, the panel finds that the ministry reasonably determined that the appellant's shelter costs will not be significantly reduced as a result of his move and; therefore, Section 55(2)(d) EAPWDR does not apply.

- Section 55(2)(e) states the minister may provide a moving supplement when the moving costs are required to move to another area of British Columbia to avoid an imminent threat to physical safety of any person in the family unit. While the appellant reported unsafe living conditions, he did not identify an imminent threat to his physical safety as noted by the ministry. The panel therefore finds that the ministry was reasonable in determining that Section 55(2)(e) EAPWDR does not apply.

- Section 55(3) EAPWDR sets out further eligibility requirements that must be met in order for the minister to provide a moving supplement. A family unit is only eligible for a moving supplement 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.

The ministry accepted that the criteria in Section 55(3)(a) EAPWDR were met as the appellant's disability assistance funds were already allotted to other expenses such as rent, utilities and food.

Regarding Section 55(3)(b) EAPWDR, the appellant indicated he paid \$450 with his April 26 disability assistance to move to his new residence and there is no evidence that the ministry had pre-approved this cost as required under the Regulation. The panel therefore finds that the ministry was reasonable in determining that the appellant did not have approval for a moving supplement at the time he incurred the costs associated with the move and therefore, Section 55(3)(b) has not been met.

On reviewing the Regulation, in particular Sections 55(2) and 55(3) EAPWDR, the panel finds that to be eligible for a moving supplement a request must meet at least one of the criteria set out in Section 55(2) EAPWDR and all of the criteria set out in Section 55(3) EAPWDR. The appellant applied for a moving supplement which was denied because he did not meet any of the criteria set out in Section 55(2) EAPWDR. The appellant paid \$450 in moving costs without the minister's approval resulting in the appellant not meeting the criteria set out in Section 55(3)(b) EAPWDR.

The panel therefore confirms the ministry's reconsideration decision pursuant to section 24(2)(a) of the Employment and Assistance Act. The appellant is not successful in his appeal.