

## 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 July 5, 2017 that denied the appellant’s request for a moving supplement because the ministry determined that the appellant did not meet the eligibility requirement to receive a moving supplement under section 55(3)(b) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry determined that the appellant had not received the minister’s approval before incurring the costs for his move.

## PART D – Relevant Legislation

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

## PART E – Summary of Facts

The appellant attended the hearing but requested an adjournment. The reason for the request was because the appellant had a medical appointment at the same time as the appeal hearing. The panel chair considered that the hearing date and the medical appointment had both been scheduled well in advance and so the request for adjournment was not based on issues that could not have been foreseen and which arose at the last minute. Consequently, in the opinion of the panel chair a last minute request for adjournment was not reasonable and the request was denied. The appellant decided that he would not attend the hearing. 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:

The appellant's *Request for Reconsideration* was unsigned and dated June 23, 2017. Accompanying the *Request* was an undated letter from the appellant's advocate, and an unsigned and undated response from the appellant confirming that he agrees with the contents of the advocate's letter. The letter stated that the appellant was forced to move to temporary housing following a flood in his previous residence. The rest of the letter is considered argument and is discussed in Part F.

The appellant's *Notice of Appeal* was unsigned and dated July 7, 2017. It stated as reason for the appeal that the appellant believes that he meets the criteria.

In the *Reconsideration Decision* the ministry noted that the appellant receives disability assistance as a single person. In the *Summary of Facts* the ministry stated that the appellant moved from his temporary accommodation on April 30, 2017 and contacted the ministry on June 8, 2017 to request a moving supplement to reimburse him for the cost of his move. The ministry determined that the appellant satisfied the criterion for section 55(2)(d) of the *EAPWDR* since as a result of the move the appellant's shelter costs have decreased. Moreover, the ministry determined that the appellant satisfied the criterion for section 55(3)(a) of the *EAPWDR* since the appellant did not have adequate resources to cover the moving costs.

At the hearing, the ministry relied on *the Reconsideration Decision*.

## 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 the appellant had not received the minister's approval before incurring the costs for his move.

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 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

In the undated letter from the appellant's advocate, the appellant argued that “. . . he could not obtain approval as the Ministry was closed . . .” and “(the appellant) could not obtain prior approval as the ministry was not open on the date he had to move . . .” In addition, according to the *Request for Reconsideration*, the appellant argued that securing housing was difficult and that there was only a small window of time for him to get it all solidified as it was a Sunday.

### Ministry Position

The ministry argued that it provides an “after hours” service so that the appellant could have contacted the ministry to seek approval for the moving supplement but failed to do so. Moreover, the ministry stated that the appellant was aware of the availability of the after hours service and had had two previous conversations with the after hours service related to his initial move to his temporary accommodation. Although the appellant's latest move occurred on a Sunday the ministry argued that the after hours service exists for situations such as the appellant's and although he was aware of the service he chose not to use it. Accordingly, the ministry argued that the appellant failed to obtain the minister's approval before incurring the moving expenses as required by section 55(3)(b) of the EAPWDR.

### Panel Decision

The panel notes that the ministry reported that the appellant had used the after hours service on two previous occasions. Accordingly, the panel accepts the ministry's argument that the appellant was aware or ought to have been aware that the after hours service was available to him. The appellant has presented no evidence that he attempted to contact the ministry to obtain prior approval and been unable to do so. Consequently, the panel accepts the ministry's contention that the after hours service should have been available to the appellant and he chose not to use the service to seek prior approval, rather than the appellant's argument that he was unable to obtain prior approval because the ministry was closed. The panel concludes that the ministry reasonably determined that the appellant did not obtain the minister's approval before incurring the moving expenses as required by section 55(3)(b) of the EAPWDR.

### **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.