

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 28 July 2017, which determined that the appellant was not eligible for a moving supplement. The ministry determined that the appellant did not meet the requirement to obtain approval from the minister prior to incurring costs as set out in the Employment and Assistance for Persons with Disabilities Regulation, section 55(3).

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 consisted of the following:

- A shelter information form dated 27 April 2017, indicating a move would take place on May 1, 2017.
- The appellant's advocate enquired about a moving supplement on 5 May 2017 and was advised that there was no record of a request for a moving supplement and no estimates had been submitted.
- The appellant's advocate stated on 16 May 2017 that estimates were difficult to obtain and she had submitted two estimates. The advocate was advised that there was no record of any estimates being submitted. The advocate stated that moving costs were \$350 and the appellant was requesting reimbursement. A quote for moving costs incurred on 1 May was submitted. The request was denied and a reconsideration was requested.
- **A Request for Reconsideration** dated 10 July 2017, in which the appellant gives as Reasons for requesting reconsideration: *I was told that if I found a place that the move would be paid for. I was under so much stress I was headed for a breakdown. I took the two estimates in before I moved. They told me it would be ready in a week. They lost everything. Note one other estimate was \$900.00.*

Notice of Appeal

In his Notice of Appeal dated 04 August 2017, the appellant gives as Reasons for Appeal: *I was told if I got a cheaper place they would pay for the move, \$330 cheaper.*

Additional Information

The appellant provided the following documents at the hearing:

1. A submission describing the appellant's medical conditions and summarizing his arguments at the hearing;
2. A moving quote dated 1 May 2017, in the amount of \$350;
3. A list of the appellant's medications;
4. A discharge plan for the appellant from the hospital in his community dated 17 February 2017;
5. A letter from the ministry dated 8 December 2016, relating to a community volunteer supplement renewal;
6. A doctor's note dated 31 March 2017, which included: the dates of the appellant's hospital stay (10-17 February 2017); that the appellant suffers from anxiety, intellectual disability and psychiatric disorder (unspecified); the opinion that unresolved issues at the appellant's residence may have contributed to the decline in mental health that resulted in admission and acknowledges that the appellant's mental health problems may also have contributed to the issues at his residence; and the opinion that the appellant should remain at his residence if this is at all practical;
7. An audiogram dated 9 March 2016, reflecting the appellant's hearing loss;
8. A letter from the appellant's bank about a replacement debit card;
9. A BC Hydro statement (billing date 7 December 2017), showing a credit to the appellant's account; and
10. A letter from the appellant's doctor dated 20 February 2017, referring to the appellant's advocate as his caregiver and advising that she should stay with the appellant for one week.

At the Hearing

The appellant's advocate attended the hearing and provided information as a witness. She stated that she submitted a request for a moving supplement with estimates and the ministry lost it. She stated that when she took in the documents, the ministry photocopied them and returned the originals to her. When she went back about 2 weeks later because she had not heard back, she was told that she had not filed a request.

The appellant stated that the paperwork (consisting of moving costs and doctor's letters) was submitted in mid-April and a worker at the ministry advised that if the new rent was \$100 less, the ministry would pay for the move. Two weeks later when the advocate went to the ministry to pick up a damage deposit for the new place, she was told that she had not dropped the papers off for the moving supplement. The appellant stated that the papers were re-submitted at the beginning of May and there was no decision until the end of June. He stated that he wanted to stay at his previous residence but there were a number of safety issues and stresses that made it unsafe, including complaints, aggressive and bullying behaviors towards the appellant and his workers as well as theft of the appellant's mail. He argued that the letter from the bank and BC Hydro statement are proof of the mail theft. The appellant argued that the ministry knew about the situation at the appellant's residence and had a duty to move him to a safer situation but failed to do so. The appellant provided information about his medical conditions disabilities, explaining that he has been fighting the system for 44 years.

The ministry relied on the reconsideration decision.

Admissibility of new information

The panel finds that the information provided by the appellant's advocate at the hearing is in support of the information provided by the appellant in the Request for Reconsideration, which was before the ministry at reconsideration. The panel therefore admits this information in accordance with section 22(4) of the *Employment and Assistance Act*. The panel finds that the information presented by the appellant at the hearing (orally and in his written submission) consisted primarily of argument but also provides elaboration on the stresses experienced by the appellant at his former residence, which he discussed in his Request for Reconsideration. The panel therefore admits this information in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel finds that the moving estimate dated 1 May 2017 is a copy of the estimate that was before the ministry at reconsideration and is admissible, but need not be admitted as evidence as it is already before the panel.

The panel finds that the list of the appellant's medications is not relevant to the issue in this appeal and is not admissible in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel finds that the hospital discharge plan is not relevant to the issue in this appeal and is not admissible in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel finds that the letter from the ministry relating to community volunteer supplement renewal is not relevant to the issue in this appeal and is not admissible in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel finds that the 31 March 2017 letter from the doctor relating to issues at the appellant's residence is in support of information at records before the ministry at reconsideration. The panel therefore admits this information in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel finds that the 2016 Audiogram relating to the appellant's hearing loss is not relevant to the issue in this appeal and is not admissible in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel finds that the bank letter about a replacement debit card is not relevant to the issue in this appeal and is not admissible in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel finds that the BC Hydro statement is not relevant to the issue in this appeal and is not admissible in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel finds that the 20 February letter from the appellant's doctor indicating a need for the caregiver to stay overnight with the appellant for one week is not relevant to the issue in this appeal and is not admissible in accordance with section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision that determined that the appellant was not eligible for a moving supplement is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The following sections of the EAPWDR applies to this appeal:

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.

The issue in this appeal is whether the ministry reasonably concluded that the appellant had not obtained the minister's approval prior to incurring moving costs. The ministry's position is that prior authorization was not obtained; therefore, the appellant is not eligible for a moving supplement. The ministry argued that its records have been searched and there is a record of the shelter allowance form being submitted on 28 April 2017, but there is no record of a service request and no record of estimates being submitted prior to the move. The ministry argued that there is no record that the appellant was advised his moving costs would be covered and no record that a moving supplement was requested until 5 May 2017. The ministry argued that there is no record that any estimates were submitted, but a receipt for moving costs incurred on 1 May 2017, was submitted on 16 May 2017.

The appellant argues that he was told that if his shelter costs were \$100 cheaper the ministry would cover the cost of the move. He and his advocate further argued that estimates were submitted to the ministry but were lost by ministry staff. He stated that one estimate was for \$900, with \$500 being labour and \$400 for the truck. The appellant stated that he opted to hire someone he knew for \$350 and this is the quote for \$350 that was before the ministry at reconsideration. The appellant argues that he should not be penalized because the ministry lost the documents. The appellant argued that the ministry knew his previous residence was unsafe and had a duty to move him; he provided a significant amount of information and argument about the stresses and issues that prompted the move.

The panel finds the question of whether the appellant's previous residence was unsafe is not at issue in this appeal. The panel finds that the only issue before it is the reasonableness of the ministry's reconsideration decision finding that the appellant had not obtained prior authorization before incurring moving costs. The panel notes that the appellant and his advocate stated that an estimate for \$900 was submitted to the ministry. The ministry's position is that its records have been searched and it does not have a record of any estimate being submitted. In response to questioning the appellant stated that he does not have a copy of the quote for \$900 either, despite the advocate stating that originals were returned to her. The panel further notes that the other estimate, reflecting the actual cost of the move, is dated 1 May 2017 and was not submitted to the ministry prior to the move. The panel concludes that the ministry reasonably determined that the appellant had not obtained minister's approval prior to incurring moving costs

CONCLUSION

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for a moving supplement, was a reasonable application of the legislation in the appellant's circumstances and was reasonably supported by the evidence. The panel therefore confirms the ministry's decision. The appellant is not successful on appeal.