

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation, renamed the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated June 21, 2017 which held that the appellant was not eligible for a moving supplement because the appellant’s move did not meet one of the legislated reasons set out in section 55(2) of the Employment and Assistance for Persons with Disabilities Regulation (“EAPDR”). The Ministry found that as the appellant was moving within the municipality that she currently resides in, she would need to show that the reason for her move was that her current accommodation was being sold, demolished or condemned; that her shelter costs would be significantly reduced; or to avoid imminent threat to her physical safety. The Ministry found that the appellant was not successful in establishing any of these reasons and was therefore not eligible for a moving supplement.

## PART D – Relevant Legislation

22(3)(b) of the Employment and Assistance Act (“EAA”)

55(1) and 55(2) of the Employment and Assistance for Persons with Disability Act (“EAPWDA”)

## PART E – Summary of Facts

At the request of the appellant, and with the consent of the Ministry the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the EAA.

### **The evidence before the Ministry Reconsideration at reconsideration included:**

The summary of facts from the Ministry Reconsideration Decision:

- The appellant is in receipt of disability assistance as a sole recipient.
- The appellant has been residing at a residence with another adult (her father) and paid \$375 per month in rent (the "Original Residence").
- On May 18, 2017 the appellant requested a moving supplement for the reason that the appellant had not found a new residence and required funds to move her belongings to a storage unit.
- On May 19, 2017 the appellant informed the Ministry that she had been evicted due to a dispute with her landlord and confirmed that she had not found a new residence. The appellant stated that the landlord made threats to her and her dogs.
- The Ministry informed the appellant that her request for a moving supplement could not be assessed until the appellant found a new residence.
- On May 23, 2017 the appellant submitted a tenancy agreement for a new residence. The agreement was effective from May 22, 2017 to July 21, 2017. The rent at the new residence was \$375 per month (the "First New Residence").
- On May 31, 2017 the appellant advised the Ministry that she would be moving to a second new residence on July 1, 2017. The rent at the second residence was \$530 per month (the "Second New Residence").
- On June 1, 2017 the appellant confirmed with the Ministry that she had been living with her father and acting as his caretaker. Her landlords were her brother and his partner. Her brother/landlord requested that she move and she requested an extension in order to move out. At that time, the appellant's brother made threats regarding her and her dogs. The appellant confirmed that her items remained at the Original Residence and that she was not able to retrieve her belongings without making prior arrangements.
- The appellant confirmed that the First New Residence was temporary and that the Second New Residence is where she intends to move to.

The appellant's written request for reconsideration which states:

- She moved her belongings to a storage unit and that she requires a moving supplement to move her belongings from the storage unit to her Second New Residence.
- She was threatened mentally and emotionally by her landlords to the point of feeling unsafe for herself and her dogs.

Written details from two moving companies, which appear to be estimates of moving and storage costs, the first estimate is \$620 and the second estimate is \$425.

A fixed length residential tenancy agreement between the appellant and a new landlord for the First New Residence for the period from May 22, 2017 to July 21, 2017 showing that the appellant would pay \$375 per month.

A shelter information form for the Second New Residence showing that the appellant would pay \$530 per month.

### **The appellant's written submission included the following:**

A written account provided by email to the Employment and Assistance Tribunal that when the appellant attempted to pack for her move, her efforts were sabotaged by her landlord putting wet dog kibble between her cleaned packed dishes in a box ready to be sealed. There was also an additional box that had a spoon filled with wet cat food dropped in it as well as cat feces. The appellant states that these activities caused the appellant to be in fear of the safety of her personal property. The appellant states that she also experienced theft of food from her kitchen fridge freezer as well as the theft of a self cooling mat for her dog. The appellant states that she could not leave her items in the garage for two months. There are six attachments to the written email. The first two attachments are audio files (mp3 files). The actual audio files were not included in the appeal record of the written hearing as they were not provided in written (transcribed) form. The second two attachments are photographs. The first photograph is entitled "moistened dog kibble btw/dishes". The picture appears to be a bowl of dogfood, some other foods and dishes and some loose dog food on the table. The second photograph is entitled "spoon with wet cat food" and it is unidentifiable from the photograph.

The fifth attachment was a written statement from the appellant dated May 12, 2017 detailing that her landlords (who are her brother and her brother's partner) would not permit her an extension to remain in her home until the end of May, 2017. The written statement includes details about the appellant's father and some disagreement that she has with her landlords about her dealings with her father. The appellant was residing with her father and looking after him. The appellant refers to some abuse she suffered at the hand of her father when she was a child. She states that she also suffered abuse from her father as an adult. The appellant describes sexual abuse she suffered while living in another province and states that she continues to suffer abuse from her father through inappropriate comments and suggestions from him (including verbal sexual harassment) throughout her maturing into an adult.

The sixth attachment is a written statement regarding intimidation from the landlords after the appellant's father had discussions with the landlords. The appellant states that in conversation with the landlords "verbal abuse was mentioned".

A letter from a community response/substance use nurse at Island Health dated May 11, 2017 which states that the appellant has been evicted from her residence to be out by May 14, 2017. There is low rental availability where the appellant resides. The letter was requesting that the appellant's current landlord permit her to remain in her residence until the end of May, 2017.

The panel determined the additional written evidence provided by the appellant was admissible pursuant to s.22(4) of the EAA as it was in support of the appellant's claims about her safety and the safety to her personal property which was before the Ministry at the time of reconsideration.

The Ministry did not submit additional evidence at the written hearing.

## PART F – Reasons for Panel Decision

The issue under appeal is if it was reasonable for the Ministry to find that the appellant was not eligible for a moving supplement because the appellant did not meet one of the legislated criteria for a “within a municipality move” set out in sections 55(2) (c), (d), or (e) of the Employment and Assistance for Persons with Disabilities Regulation (“EAPDR”). Specifically, was it reasonable for the Ministry to determine that appellant’s move was not for the reason that her residence being sold, demolished or condemned; that her shelter costs would be significantly reduced; or that she moved to avoid imminent threat to her physical safety.

### The legislation provides:

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 panel finds:**

The appellant did not provide evidence that the Original Residence was being sold, demolished, or condemned and the panel finds it reasonable that the Ministry was not able to provide the appellant with a moving supplement on this basis.

The appellant provided evidence that the First New Residence is the same rental amount as the Original Residence. The appellant provided evidence that the Second New Residence is more expensive than the Original Residence (\$530 per month instead of \$375 per month). The appellant provided evidence that it was in fact her intention to move to the Second New Residence, which is more expensive than her Original Residence or the First New Residence. The panel finds that it is reasonable that the Ministry was not able to provide the appellant with a moving supplement on the basis of significantly reduced shelter costs.

The appellant gave written evidence that in the process of packing up her things, her landlords placed wet dog kibble, cat food, and cat feces in her things. The appellant states in her emailed written statement that “she was in fear of the safety of her personal property”. The appellant also gave written evidence that her food and a mat for her dog were stolen by her landlords. The appellant gave written evidence, that given this behavior of her landlords, she could not trust her items to be left in the garage at her Original Residence. The appellant states in her request for reconsideration that she “was threatened mentally and emotionally by one of the landlords to the point of feeling unsafe for herself and her dogs.” In the following line, the appellant specifies that she was not trusting that her belongings would be safe and secure if left in the possession of her landlords. In order to meet the legislated criteria set out in s.55(2)(e), the appellant must be moving to avoid imminent threat to the physical safety of any person. The details from the appellant primarily focus on the fear of the physical safety to her property and not to her person. She states that she was threatened to the point of feeling unsafe, but does not provide details about the imminence of this. Further, these feelings of fear were only after her decision to move, during the packing process. The panel finds that the Ministry was reasonable in determining that the appellant’s fears of her landlords and of the destructions to her personal property are not sufficient to meet the criteria of “imminent threat to physical safety”.

The appellant provides details about some abuse suffered as a child by her father (now roommate). The appellant states that this abuse has continued into her adulthood. The appellant does not provide dates or a timeline to show how recently she suffered this abuse or how imminent this abuse is. The appellant does not state that the reason for her move is that she fears the abuse of her father/roommate. The appellant states that in moving “it will be a great pleasure not be her father’s entertainment anymore”. However, the appellant does not state or provide sufficient evidence that she is moving to avoid imminent threat to her physical safety by her father/roommate. The evidence is that she is moving because her landlord’s have asked her to leave. The requirement set out in s.55(2)(e) of the EAPWDR is that the moving costs must be required to avoid an imminent threat to the physical safety of a person. The panel finds that the Ministry was reasonable in determining that the appellant did not provide sufficient evidence that she was not moving to avoid “imminent threat to physical safety” by her father/roommate.

The panel finds that the Ministry’s reconsideration decision was reasonably supported by the evidence and was a reasonable application of the legislation. The panel confirms the Ministry decision.