PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the "Ministry") reconsideration decision of July 26, 2017 (the "Reconsideration Decision"), which denied the Appellant a supplement for moving from her home city (the "Home City") to a destination city (the "Destination City") on the basis that the Appellant did not meet the statutory requirements set out in section 57(2) of the *Employment and Assistance Regulation* ("EAR") because at the time of her request for the moving supplement, the Appellant was not "not working" and the Ministry was not satisfied that the Appellant's move to the Destination City would significantly promote her financial independence, both of which are required for eligibility for a moving supplement by section 57(2)(a) of the EAR.

The Ministry also held that the Appellant's move to the Destination City to work for a store that was part of the same franchise as the store for whom she worked in the Home City represented a transfer with the same employer.

PART D – Relevant Legislation

Employment and Assistance Act, S.B.C. 2002, c. 40 ("EAA"), section 4
EAR, section 57

PART E – Summary of Facts

Information before the ministry at reconsideration

The following information was before the ministry at the time of the Reconsideration Decision:

- The Appellant's Request for Reconsideration, dated July 25, 2017;
- An undated estimate for moving for $2,800.00;
- A handwritten letter, dated July 24, 2017, from the Appellant;
- A moving estimate, dated July 24, 2017, for $2,700.00;
- A handwritten letter, dated July 24, 2017, from the manager of a store in the Home City (the "Home City Store"), at which the Appellant had been working since March, 2017;
- A moving estimate, dated July 20, 2017, for $3,670.00, inclusive of taxes; and
- A letter, dated July 18, from the manager of a store in the Destination City (the "Destination City Store") where the Appellant had accepted a job.

Information provided on appeal

The following additional information was provided by the Appellant for the appeal:

- The Appellant's Notice of Appeal, received by the tribunal on July 28, 2017;
- A typed letter, dated July 27, 2017, from the manager of the Home City Store; and
- A handwritten letter, dated July 27, 2017, from the manager of the Destination City Store.

The Appellant began working at the Home City Store, on a part-time basis, in or about March of 2017. Starting in or about May of 2017, the Appellant's hours at the Home City store increased significantly, due to the departure of other staff members and the subsequent medical leave of one of the Home City Store's managers. By early July, however, the Appellant's hours at the Home City store were cut back to approximately 10 to 15 hours weekly.

On or before July 18, 2017, the Appellant found employment with the Destination City Store, which, although part of the same franchise as the Home City Store, is an independent business.

Some time prior to July 24, 2017, the Appellant gave her notice at the Home City store but continued to work there until the end of July, albeit at significantly reduced hours.

The Appellant also gave notice to her landlord in the Home City that she would be vacating her apartment at the end of July, 2017.

The Appellant currently resides in the Destination City with a friend but her personal belongings remain in Home City and are currently being stored at the residence of a friend.

Admissibility of New Information

The Ministry did not take issue with the admissibility of the letters from the managers at the Home City Store and the Destination City Store, both dated July 27, 2017.

The letter from the manager of the Home City Store confirms that the Appellant had, in fact, quit her job at the Home City Store to go to work at the Destination City Store, which was an unrelated entity. This evidence corroborates the evidence of the Appellant, contained in her July 24, 2017 letter that she had quit her job at the Home City Store due to significantly reduced hours.

The July 27, 2017 letter from the manager of the Destination City Store confirms that the Appellant would be working 15 to 22 hours per week at the Destination Store and that the Appellant's hourly wage would be $12.50, an increase of $1.65 per hour from her wage at the Home City Store, which corroborates the Appellant's evidence, also contained in her July 24, 2017 letter, that she would be getting more hours at the Destination City Store.

In her oral evidence, the Appellant provided further evidence that she had, in fact, been working even more hours than she had anticipated at the Destination City Store and that she had accepted a second job in the Destination City and had the opportunity to begin working a third job as well. The Appellant's oral evidence corroborated the Appellant's previous evidence, as set out in her July 24, 2017 letter, that her anticipated move to the Destination City would be financially beneficial for her.

The panel finds that the letters from the managers of the Home City Store and the Destination City Store, both dated July 27, 2017, and the Appellant's oral evidence are both in support of the records before the Ministry at the time of the Reconsideration Decision, as required by section 22(4) of the EAA.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's Reconsideration Decision to deny the appellant a moving supplement for her move from the Home City to the Destination City was reasonably supported by the evidence or was a reasonable application of the relevant statutory provisions in the circumstances of the Appellant. In particular, the issue on appeal is whether the Ministry reasonably determined that the Appellant was not entitled to the moving supplement because the Appellant was working at the time of her request for the moving supplement and because it was not satisfied that the Appellant's move would significantly promote her financial independence.

The relevant legislation is found in section 4 of the EAA, which permits the Ministry to provide supplements generally, and section 57 of the EAR, which sets out the specific eligibility requirements for supplements for moving, transportation, and living costs:

EAA

Income assistance and supplements

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

EAR

Supplements for moving, transportation and living costs

57 (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 income assistance, other than as a transient under section 10 of Schedule A, 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 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 20 *[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 position of the Appellant is that she accepted the position at the Destination City store because it offered her more hours, a higher income, and the opportunity to discontinue income assistance. The Appellant stated that she obtained multiple estimates for moving costs, as required, and was moving to a location that would promote her financial independence. In her oral evidence, the Appellant described having already received more hours at the Destination City Store than she had anticipated and that she had also found a second part time job at another retail store with hours that would allow her to keep her regular hours at the Destination City Store. The Appellant also described having had interviews for other positions in the Destination City.

The Appellant also disputed that the move from the Home City Store to the Destination City Store was simply a transfer because, although part of the same franchise, the Home City Store and the Destination City Store are operated independently of one another.

The Appellant stated that she was still working at the Home City store at the time she sought the approval of the Ministry for her planned move because she felt that it was important to give reasonable notice to the Home City Store of her intention to quit to move to the Destination City and begin work at the Destination City Store.

Ministry Position

The Ministry's position is that the Appellant's move from the Home City Store to the Destination City Store represented a transfer "within the same company", disqualifying the Appellant from a supplement as a transfer did not meet any of the criteria set out under section 57(2) of the EAR. Given the information contained in the letter, dated July 27, 2017, from the manager of the Home City Store, which advised that "The Destination City Store is a privately owned store not affiliated with our store."

The Ministry also took the position that the Appellant did not qualify for a moving supplement because, at the time of her request, she was still working and section 57(2)(a) requires that "a recipient in the family unit is not working" in order to establish eligibility.

Finally, the Ministry position was that, because the job at the Destination City Store was also a part-time job, it was not satisfied that the Appellant's move to Destination City would significantly promote her financial independence. On appeal, however, the Ministry appeared to take the position that it *was* satisfied that the Appellant's move to Destination City would significantly promote her financial independence.

Panel Decision

Section 57(2) of the EAR sets out a number of circumstances whereby the Ministry may provide supplements for moving, transportation, and living costs. Subsections (a), (b), and (c) deal with circumstances similar to those of the Appellant, where a moving supplement is requested where the recipient is hoping to ameliorate his or her family unit's economic circumstances. As subsections (b) and (c) concern moves to other provinces and adjacent municipalities, respectively, only subsection (a) could apply to the Appellant's proposed move from Home City to Destination City.

In order be eligible for a supplement under section 57(2)(a), a recipient must meet four criteria:

- the "recipient in the family unit is not working";
- the recipient "has arranged confirmed employment";

- the confirmed employment "would significantly promote the financial independence of the family unit"; and
- "the recipient is required to move to begin that employment."

The Appellant established that she had confirmed employment at the Destination City Store and clearly would be required to move from Home City to Destination City to begin that employment.

The Reconsideration Decision denied the Appellant a supplement on the basis that it was not satisfied that the move to Destination City would promote the Appellant's financial independence. The July 27, 2017 letter from the manager of the Destination City Store indicated that the Appellant would be working between 15 and 22 hours per week at the Destination City Store at a rate of $12.50 per hour. The Appellant had been earning $10.85 per hour at the Home City Store and was expected to work between 9 and 15 hours per week at the Home City Store. The letter from the manager of the Home City Store, dated July 24, 2017, indicates that the Appellant had, in fact, worked a total of 32 hours in her final three weeks of employment at the Home City Store. In view of the additional information about the increased hours the Appellant was expected to work at the Destination City Store, contained in the letter from the manager of the Destination City Store, dated July 27, 2017, and in the Appellant's oral evidence about working more hours than expected and having found additional employment since arriving in Destination City, the panel finds that the Ministry's decision that the Appellant's move would not significantly promote her financial independence was not a reasonable application of the legislation to the Appellant's circumstances.

Section 57(2) does not expressly preclude a moving supplement for an applicant who transfers from one job to another with the same employer, the evidence set out in the letter from the manager of the Home City Store, dated July 27, 2017, makes clear that the Appellant had quit her job at the Home City Store and to accept a position at the independently operated Destination City Store. In the result, the panel finds Ministry's determination that the Appellant's employment at the Destination City Store represented a transfer from the Home City Store was not a reasonable application of the legislation to the Appellant's circumstances, in light of the information contained in the July 27, 2017 letter from the manager of the Home City Store that the Home City Store and the Destination City Store operate independently of one another.

The other requirement under section 57(2)(a) of the EAR, however, is that the recipient "is not working." The term "not working" is not defined in the EAR and, in the result, the panel is left to interpret the term according to its plain meaning. Although the Appellant may have been underemployed at the Home City Store, as she described in her evidence and as corroborated in the letters from the manager at the Home City Store, she was technically "working" at the time of her request for a moving supplement, despite having given her notice at the Home City Store. In the result, she was not "not working" and does not meet the criteria for a moving supplement under section 57(2)(a) of the EAR, as that section is worded. In the result, the panel finds that the Ministry's Reconsideration Decision that the Appellant did not qualify for a moving supplement was a reasonable application of the legislation to the circumstances of the Appellant as the Appellant did not meet all of the criteria under section 57(2)(a) of the EAR.

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation and for the reasons provided above, the panel finds that the Ministry's decision that the Appellant is not eligible for a moving supplement for her move to Destination City is a reasonable application of the relevant statutory provisions. In the result, the panel confirms the Ministry's decision. The Appellant is not successful on appeal.