

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry)'s reconsideration decision dated April 5, 2017, finding the appellant is not eligible to receive reimbursement for moving costs because his move does not meet any of the criteria in sections 57(2)(a)-(e) of the *Employment and Assistance Act* (EAR), it was not the case that he did not have resources to cover the cost of the move as required by section 57(3)(a) of the EAR, and because he did not receive pre-approval of the minister as required by section 57(3)(b) of the EAR.

## PART D – Relevant Legislation

The relevant legislation is section 57 of the EAR.

## PART E – Summary of Facts

The appellant has been in receipt of income assistance as a single person since May 2017 and currently has a Persons with Disabilities application in process.

The evidence before the ministry at the time of the reconsideration decision consisted of the following:

1. A Two Month Notice to End Tenancy dated January 8, 2017, addressed to the appellant requiring that the appellant vacate the rental premises by April 31, 2017.
2. An invoice from a moving company dated April 30, 2017, addressed to the appellant for the amount of \$729.75.
3. An invoice from a cleaning company dated May 6, 2017, addressed to the appellant for the amount of \$361.46.
4. A letter from the appellant to the ministry dated June 20, 2017, requesting, among other things, reimbursement of the moving costs and cleaning costs set out above.
5. A letter from the appellant to the ministry dated July 18, 2017, by way of a reconsideration submission in which the appellant states:
  - a. It was unreasonable for the ministry to expect the appellant to adhere to strict timelines as he has a debilitating spinal injury and severe diabetes issues so that he can only accomplish 5-10% of what an average able-bodied person can.
  - b. He did not receive income assistance until after the move on May 16, 2017.
  - c. He did not secure his new accommodation until April 30, 2017, so had to move immediately without time to gather quotes and receive pre-approval.
  - d. He was told by ministry staff that there were exceptions to the pre-approval requirement which is warranted here.
  - e. He faced imminent danger to his physical health as he faced being homeless.
  - f. The ministry did not inform the appellant that he could receive funding for his moving costs.
  - g. He does not have other resources as the small savings that he has he will need to care for himself in the future.
  - h. It was unreasonable for the ministry to expect him to have known that he needed to submit two quotes for the moving costs before the move date as he did not sign his Employment and Assistance Agreement until May 12, 2017.
  - i. It was unreasonable for the ministry to treat him as an able-bodied person when his debilitating conditions make it much more difficult for him to carry out tasks.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision finding the appellant is not eligible to receive reimbursement for moving costs because his move does not meet any of the criteria in sections 57(2)(a)-(e) of the EAR, it was not the case that he did not have resources to cover the cost of the move as required by section 57(3)(a) of the EAR, and because he did not receive pre-approval of the minister as required by section 57(3)(b) of the EAR.

The relevant legislation is section 57 of the 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.

### **The Appellant's Position**

Section 57(2): The appellant argued that he met criteria 57(2)(e) of the EAR in that if he had not moved and so incurred the expenses he would have been homeless and had to live in his car.

Section 57(3)(a): The appellant stated that he had about \$15,000 in savings from which he paid for the move. However, this amount is all he has to support himself for the rest of his life as he is disabled and unable to work, so that it was not reasonable to find that the appellant had other resources. As well, the appellant stated that he has an application for disability assistance currently being assessed by the ministry, so that the ministry should apply the asset limits applicable to those in receipt of disability assistance to him.

Section 57(3)(b): The appellant stated that it was unreasonable for the ministry to expect him to have received pre-approval for the moving costs because:

1. He was not yet receiving income assistance at the time of the move and so could not have known that he was eligible for moving expenses.
2. He was not aware, and the ministry did not make him aware, that pre-approval for moving costs was necessary.
3. He was not aware that he needed movers until the day he was required to leave his previous lodgings.
4. Given the limitations he experiences due to his severe physical conditions and the pain he experiences, it was unreasonable for the ministry to expect him to be able plan, act and respond to the same standard as an able-bodied person.

Based on the above, this was a circumstance in which it would be reasonable for the ministry to make an exception, which it can and does do.

### **The Ministry's Position**

Section 57(2)(e): The ministry argued that there is no evidence that the appellant would have faced "imminent danger to his physical safety" without funding for his move. In fact, the appellant was able to pay for the move and did move into his new accommodation.

Section 57(3)(a): The ministry stated that, as the payor of last resort, it must look to all of the appellant's assets other than those that are exempt in determining whether the appellant has other resources. In this case, the appellant has about \$15,000 in savings which are not exempt and so had other resources to pay the \$729 to the movers and the \$361 to the cleaners. As well, disability assistance asset exemptions apply on to those who have qualified as a Person with Disabilities, which, at the time of the move, the appellant had not.

Section 57(3)(b): The appellant stated that it was unreasonable for the ministry to expect him to have received pre-approval for the moving costs because:

1. The appellant had applied for income assistance in April and been approved to begin receiving benefits in May before the move. If this had not been the case the appellant would not be eligible to receive funding for moving costs as he would not have been a "recipient".

2. Although the ministry does try to assist people in understanding what benefits are available to them and has posted resources online, it is not responsible to ensure that recipients are aware of them.
3. The legislation does not provide an exemption to the need for pre-approval of moving costs. Although the ministry sometimes does make exceptions this is only in circumstances where there is danger to the applicant's life if they do not move quickly and without pre-approval. This is not a situation in which the ministry would apply such an exemption.
4. The legislation is clear that pre-approval is required and the ministry requires at least two quotes in order to ensure that the most economical option is chosen. The legislation does not allow the ministry to take into account the physical and mental condition of the applicant.
5. The ministry does not consider this a situation in which it is appropriate to make an exception to the requirement for pre-approval.
6. The ministry also noted that the appellant waited 2 months before applying for re-imbusement of the moving costs, which it considers a significant delay.

### **The Panel's Analysis**

Section 57(2)(e): Whether having to live in one's car represents "an imminent threat to physical safety" is moot as once the appellant had secured the new accommodation he did not face that danger because he had resources to pay the movers. Put another way, if the appellant did face physical danger in regards to this move, it was because he could not find accommodation, not because he needed funding for his move into it. In the event, the appellant could and did pay for the move himself and so avoided any imminent threat to physical safety. The ministry reasonably determined that the appellant did not meet the requirement of section 57(2)(e).

Note: The appellant did not argue that he qualified under any of the other sections of section 57(2).

Section 57(3)(a): By his own admission, the appellant has about \$15,000 in savings. While the panel is sympathetic that this is not a significant amount of money given the appellant's circumstances, the legislation is clear that the appellant must have no other resources available to pay for the move. In this case, the appellant did have other resources and they are not exempt and did in fact pay for the move himself. The ministry reasonably determined that the appellant did not meet the requirement of section 57(3)(a).

Section 57(3)(b): The panel is not aware of any provisions of the legislation that would allow the ministry to make an exception to the pre-approval requirement. Whether in practice the ministry does so is not germane to this appeal. This section clearly states that a recipient must receive pre-approval from the minister to receive funding for moving expenses. The appellant did not apply for or receive such pre-approval. The ministry was reasonable in determining that the appellant did not meet the requirement of section 57(3)(b).

### **Conclusion**

Accordingly, the panel finds that the Ministry's decision to deny the appellant re-imbusement for his moving expenses was a reasonable application of the relevant legislation and confirms the Ministry's reconsideration decision.