

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated August 24, 2017 in which the minister determined that the appellant was not eligible for a moving supplement. The ministry relied upon section 55 (1) of the Persons with Disabilities Regulation and noted that “moving cost” means the cost of moving a family unit and its personal effects from one place to another and that as the appellant moved property from a storage unit, moving only personal effects, a family unit was not moved and therefore the legislation did not apply. The ministry further concluded that under section 55 (3) a family unit is eligible for a supplement only if a recipient in a family unit receives the minister’s approval before incurring the cost and that the appellant did not receive the ministry’s approval before incurring the cost.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWD Regulation), section 55

PART E – Summary of Facts

The appellant is a single person in receipt of persons with disability (PWD) benefits.

On May 10, 2017 the appellant contacted the ministry to request a moving supplement. The appellant stated she had already moved to a Lower Mainland city and needed to get her belongings from another city.

On May 18, 2017 the appellant provided to the ministry quotes for moving.

On May 29, 2017 the appellant spoke with a ministry worker and stated that she had moved from one city to another for safety reasons and that she had filed several police reports regarding the individual and that she was trying to obtain a restraining order.

On May 30, 2017 the appellant provided to the ministry a police file number in respect of issues she was having with another individual and which caused her to move.

The appellant's request for a moving supplement was recorded by the ministry under service request number 1- 43999533837.

The appellant provided to the ministry a moving quote in writing dated June 7, 2017 referencing a move date of June 12, 2017. The quote was for flat rate of \$1,300. The quote referenced service request 1-4399533837. The quote stated "if approved please pay direct to [the moving company]".

By a decision dated June 8, 2017 the appellant's request for a moving supplement was denied as she was found to be not eligible. It was noted that the appellant did not receive the minister's approval before incurring moving costs. The appellant was advised of the ministry's decision on July 4, 2017.

In her request for reconsideration dated August 16, 2017 the appellant stated that her mother had paid, on July 17, 2017, \$1,200 for movers and that she herself had paid \$100 for movers. She stated that her move was supposed to be paid for but that the ministry's computer had a glitch in it so she didn't get her money. She noted that she also paid \$179 for storage.

The appellant further stated that she had asked the ministry for help with her moving expenses in May when she first moved to her new apartment. She was asked by the ministry to fax the quotes for the move. She stated that her service request was approved "by a lady who called me" and who asked for a police file number and who gave her service request number 1-4399533837.

The appellant further stated that on July 16 or 17 her property was moved from her prior residence to her new residence. She stated that if she knew the ministry was going to deny what they had agreed to pay she would not have looked for two quotes. She would have accepted a less expensive quote which she had not obtained in writing.

At the appeal hearing the appellant stated that she had been in contact with the ministry before her move. The ministry advised the appellant that she should obtain two quotes for moving and that they should be in writing to demonstrate that they were legitimate. The appellant stated that she was subsequently contacted by telephone by the ministry indicating that she had been accepted for the moving costs and she was given a confirmation number. The appellant then contracted with the movers to move her belongings. However, her mover subsequently told her that the ministry had advised that she was not in fact approved for the move. The appellant moved her possessions in any event.

The appellant stated that the ministry's telephone call indicating acceptance of the moving expense occurred in May or June 2017.

The appellant stated that the confirmation number given to her by the ministry was located on page 44 of the appeal documentation and specifically referenced service request number 1-43999533837.

The appellant advised the panel that she would also like to be reimbursed for her \$179 per month storage fees.

Pursuant to a question from the panel, the appellant's attention was drawn to the quote from one of the movers which indicated an anticipated move date of June 12, 2017 and that "if approved" the appellant should pay the mover direct. The appellant confirmed that by this time she had already moved from one city to another and that the move date referred to was in respect of her possessions, not herself.

The appellant's possessions were moved by the mover on July 16, 2017. It was prior to that when the mover advised the appellant that the ministry had indicated that the appellant was not approved for the moving expenses.

In response to a question from the panel, the appellant confirmed that on May 10, 2017 she requested a moving supplement but by that time she had already moved from one city to another.

In the ministry submissions, the ministry representative noted that the entire ministry file in respect of this matter had been reviewed. The ministry representative noted that there were no additional facts noted in the ministry file and in particular there was no evidence of any ministry representative approving the appellant's moving expenses.

There was no evidence that the ministry representative advised the appellant that her moving expenses were approved. The ministry representative noted that the service request number referred to above is the only service request number created in respect of the appellant's request for a moving supplement and that there was no "confirmation number".

The ministry representative and stated that for procedural reasons it would not be unlikely or unusual for the ministry to request that the recipient provide two quotes for a move even if a request for a moving supplement had been denied.

The ministry representative pointed out that other service request numbers in the appeal material related to action subsequent to the service request number established for the appellant's moving expense request. In particular unique service request numbers are created for the appellant's request for reconsideration and the appellant's appeal to the tribunal.

In its submissions the ministry representative noted that there was no dispute that the appellant had to move for personal safety reasons.

DISCUSSION AND DECISION

The issue on this appeal is whether or not the appellant is eligible for a moving supplement.

The relevant legislation is as follows:

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.

[am. B.C. Reg. 275/2004, s. 2.]

A “moving cost” is defined in section 55 (1) of the EAPWD Regulation as meaning “the cost of moving a family unit and its personal effects from one place to another.”

It is apparent on the facts submitted by both the appellant and the ministry that the moving expense claimed by the appellant is not in respect of the move of the appellant personally but the move of the appellant’s personal effects from one city to another. This occurred subsequent to the appellant’s personal move. The appellant had moved herself prior to her May 10, 2017 request for a moving supplement. Subsequently, the

appellant's request for a moving supplement was denied June 8, 2017. Movement of her personal belongings took place after that date.

Section 55 (3) of the EAPWD Regulation provides that a family unit is eligible for a moving supplement if "...a recipient of the family unit receives the minister's approval before incurring those costs."

Although the appellant argues that a ministry representative had provided the appellant with approval for the appellant's moving costs over the telephone, that is not reflected anywhere in the ministry's file. The appellant's statement that the appellant was provided with a unique confirmation number for this approval is not demonstrated. The number referred to by the appellant is a service request number which memorializes the appellant's request for a moving supplement; that is not confirmatory of approval for the moving expenses.

The appellant acknowledged that she had already moved herself when she contacted the ministry on May 10, 2017 and accordingly it is apparent that she had moved herself prior to ministry approval.

However, although the definition of "moving costs" in the legislation is conjunctive in its use of the word "and" in the phrase "the cost of moving a family unit and its personal effects from one place to another" that does not necessarily mean that the costs must be incurred at the same time. Further, there is no evidence that the appellant was seeking reimbursement of any cost for her personal move or that, indeed, she incurred any cost in that regard at all. Accordingly, the request for a moving supplement for personal effects from one place to another, being from a storage unit in one city to her new place of residence in another city, is valid.

In the ministry's integrated case management decision report the decision on the appellant's request for a moving supplement is dated June 8, 2017. The decision report indicates that the appellant is not eligible for a supplement for moving because the appellant "... has not received the minister's approval before incurring those costs." No other reason for the decision is indicated in the decision report.

The appellant only incurred the expense to move her personal effects after that decision was made.

In the request for reconsideration the ministry stated that on July 4, 2017 the appellant was informed that her request was denied as the information provided does not meet all regulatory criteria. The request was denied for the following reasons:

- the appellant was not moving anywhere in Canada due to confirmed employment
- the appellant was not moving to another province or country in order to improve living circumstances
- the appellant was not moving within her municipality or to an adjacent

municipality because rented residential accommodation is being sold or demolished or condemned

- the appellant was not moving within the appellant's municipality or to an adjacent principality because shelter costs will be significantly reduced
- the appellant was not moving to another area in British Columbia to avoid an imminent threat to physical safety
- the appellant was not needing transportation and living cost because the appellant needed to attend a hearing relating to child protection, and
- the appellant was not needing transportation, living or childcare costs and fees resulting from a hearing or maintenance rights assigned to the minister.

The request for consideration indicates that on May 29, 2017 the appellant spoke with a ministry worker and stated she was moving from one city in British Columbia to another for safety reasons and that the appellant had filed several police reports regarding an individual and that the appellant was trying to obtain a restraining order. On May 30, 2017 the appellant contacted the ministry and provided a police file number in respect of a complaint for stalking and harassment.

The appellant's evidence was that she provided the police file number to the ministry at the request of the ministry.

There is no evidence on the record that the ministry considered the appellant's statements about the reason for her move from one city in British Columbia to another for safety reasons and her police complaint about stalking and harassment as evidence that she needed to move to avoid an imminent threat to physical safety.

The panel concludes therefore that the minister's determination that the appellant was not eligible for a moving supplement was not reasonably supported by the evidence and not a reasonable application of the applicable enactment in the circumstances of the appellant.

The appellant's request for a moving supplement can, in the circumstances of this case, fall within the meaning of a moving cost within the legislation. The appellant made the request for the supplement prior to moving her personal affects. The appellant's request was denied before she incurred the cost. Accordingly, the costs were incurred after the ministry's determination and not prior thereto.

Additionally, there is uncontradicted evidence, confirmed by the ministry's own chronology of events that the appellant stated that she was moving from one city in British Columbia to another for safety reasons, that she had filed several police reports, was trying to obtain a restraining order, and had given the ministry a police file number for stalking and harassment. The appellant was entitled to a determination of her request for moving supplement on the basis of section 55 (2) (e) of the EAPWD Regulation

Accordingly the panel finds that the reconsideration decision was not reasonably supported by the evidence and was not a reasonable application of the applicable enactment in the circumstances of the appellant.

The panel rescinds the decision of the minister and refers the matter back to the Minister for further decision.