

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("ministry") reconsideration decision dated August 15, 2017 in which the ministry found the appellant was not eligible for a moving supplement under section 55 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry found that the appellant was not moving from one place to another as defined in section 55(1) of the Regulation and that she was not moving for one of the reasons set out in section 55(2).

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 decision included the following:

1. A Request for Reconsideration (“RFR”) signed by the appellant on July 21, 2017 with attached submissions:

- A 4-page handwritten letter from the appellant in which she provided the following information:
 - The appellant has never rented a U-Haul [as reported in the ministry’s *Decision to be Reconsidered*] as she is unable to drive and handle anything heavy due to her disability.
 - The appellant originally moved from B. Road in 2010 when the home she was living in was sold. She moved to A. Road but that home was subsequently sold as well. The appellant moved once again, this time to D. Road. The D. Road property was sold last fall (2016). The appellant placed her belongings in storage and moved to temporary accommodations while she searched for a permanent residence.
 - Due to an almost zero percent vacancy rate in her area, the appellant moved into a motel through the winter months of 2016. The appellant lived in the motel until April 2017 when summer rates came into effect.
 - On April 1, 2017, she was forced to move to another temporary residence (“the temporary accommodation”) due to the rates at the motel becoming too expensive. The temporary accommodation was for 3 months. The owner was returning from his winter residence on July 1, 2017 and the appellant was required to move out.
 - As of July 2017, she had to move again. The appellant said she was fortunate to find her current residence on G. Road. Meanwhile, the appellant’s belongings remained in storage. She placed most of her personal items in a storage facility and a few items remained at the temporary accommodation.
 - The appellant now needs financial help to move her belongings into her current long term residence.
 - The appellant has a service dog that requires suitable accommodation, in an expensive area that has very few vacancies. For medical reasons, she also needed to be closer to the main city in her area.
 - A relative will loan her money to pay storage costs that are currently due. However, the appellant still has to move a bedroom suite, china cabinet, boxes, and personal belongings to complete the move to her current residence. The majority of contents are in storage because her two short term accommodations were partially furnished and intended to be temporary accommodations from the outset.
 - Her income has been decreasing yearly [the appellant provided several calculations], with deductions taken from her assistance that she is questioning.
 - A letter from the appellant’s family physician, dated August 2, 2017, advocating for moving expenses on her behalf. The physician described the appellant’s move to the motel and to her current residence and stated that the appellant was obliged to place items in storage due to size constraints at the motel. The physician confirmed that the appellant had moved to the motel when the landlord sold her previous accommodation. The appellant added a hand-written notation indicating she also spent 3 months in the temporary accommodation until the owner took possession forcing her to move again.
2. The ministry’s denial letter of August 15, 2017 informing the appellant that after reviewing the information in her RFR, the ministry determined she is not eligible for a moving supplement.

3. Three quotations for moving costs, received by the ministry on July 12, 2017:

- Dated July 10, 2017 for \$675 - \$975;
- Dated July 7, 2017 for \$845.25; and
- Dated July 12, 2017 for \$1,606.50

4. Background information from the ministry's record as follows:

- The appellant is a sole recipient of disability assistance.
- In June 2017, she advised the ministry that she had moved from the D. Road residence where her rent was \$600 per month; to the W. residence where her rent was also \$600 per month. Her share of the rent at her current residence is also \$600 per month.
- On July 12, 2017, she attended the ministry office and submitted moving quotes. A service request was created to consider the appellant's request for a moving supplement. The appellant advised that she had to place some of her belongings in storage as she had moved from her previous residence to a second residence that was much smaller.
- On July 13, 2017, a ministry worker reviewed the appellant's request and contacted her for more information. The appellant stated that she needed to move her belongings "from her old place and storage" to her new place. The appellant advised that her personal belongings included all household items, a china cabinet in storage, and beds at her old home, and she was moving approximately 25 minutes away from her old residence. The appellant stated that she requires a proper bed to sleep on, she does not know anyone with a truck, and her family lives elsewhere. The appellant said that in the past she used a U-Haul truck to move her belongings into storage. She added that she moved to her most recent address because of reduced rent, being closer to her medical appointments, and having more room for her service dog. The appellant advised that she owes \$300 for storage fees and she has been unable to make the monthly payments of \$149.10. She appellant advised that the storage company has warned her that her belongings will be auctioned off if she is unable to make the payments. The appellant explained that a relative was only able to help her with part of the overdue storage fees. The appellant said she is trying to find a way to pay the outstanding balance.
- On July 13, 2017, the ministry denied the appellant's request for a moving supplement.
- On August 2, 2017, the appellant returned her completed RFR

Additional submissions

Subsequent to the reconsideration decision, the appellant submitted her *Notice of Appeal* dated August 21, 2017 in which she provided her argument on the form and in attached handwritten notations on a copy of the ministry's *Employment and Assistance Reconsideration Decision* and the *Decision to be Reconsidered*. The appellant reiterated that the moves she had made to the temporary and current accommodations were mandatory and her belongings have been in storage since she moved from the D. Road property that was sold. The ministry provided its argument in the reconsideration decision and did not submit any new evidence. The panel accepts the appeal submissions as argument in support of the parties' positions at the reconsideration and the panel will consider the arguments of both parties in the next section, *Part F - Reasons*.

Oral testimony

The appellant summarized the moves she had made between 2010 and 2017 and expanded on her written arguments. In response to questions from the panel, the appellant confirmed that she had not applied for a moving supplement for her previous moves. She stated that a relative was available to move her belongings to D. Road and then to storage when that residence was sold. She said that the relative currently lives out of province and she no longer has anyone available to help her move her belongings.

The appellant explained that when she approached the ministry in June 2017 about a moving supplement, ministry staff told her to provide three quotes from movers. The appellant said she actually started inquiring about a moving supplement in March 2017. She stated that it was difficult to obtain moving quotes during the busy season from moving companies. Consequently, the appellant could not give the requested quotations to the ministry until July 12, 2017. By that time, the appellant had moved to her current residence but she still needed to move her belongings from the storage unit along with a few other items such as small kitchen appliances that were left behind at the temporary accommodation. The panel finds that the appellant's testimony provides further clarification on the history of her moves. The panel therefore admits the testimony under section 22(4)(b) of the *Employment and Assistance Act* as evidence in support of the information and records that were before the minister at the time the decision being appealed was made.

PART F – Reasons for Panel Decision

The issue to be decided is whether the ministry's reconsideration decision of August 15, 2017 in which the ministry found the appellant was not eligible for a moving supplement under section 55 of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. Specifically, the ministry found that the appellant was not moving from one place to another as defined in section 55(1) of the Regulation and that she was not moving for one of the reasons set out in section 55(2).

The relevant sections of the EAPWDR are as follows:

Supplements for moving, transportation and living costs

55 (1) In this section:

"moving cost" means the cost of moving a family unit and its personal effects 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;

(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 (1) (f) or (g), the least expensive appropriate living costs.

Analysis and panel's decision: EAPWDR section 55(1)

The Regulation defines “moving cost” as the cost of moving a family unit and its personal effects from one place to another. The ministry is therefore authorized to provide a moving supplement in circumstances where a person is moving their self and their belongings from a previous residence to new accommodations. The ministry argued that the appellant’s request for a moving supplement does not meet the criteria in section 55(1) because the appellant was moving only her belongings, and not herself, from the storage unit to her current residence.

While a storage unit could be considered as a “place” under section 55(1), the evidence confirms that the appellant was not residing there. Her residence as of the date that the ministry opened the service request for a moving supplement [July 12, 2017] was her current residence on G. Road. The appellant confirmed that her belongings were already in storage when she moved to G. Road in early July 2017 as she had to vacate the temporary accommodation by July 1, 2017 so that the owner could take possession. The panel therefore finds that the ministry reasonably interpreted the legislation to apply to a situation in which the person is moving their self and their belongings simultaneously.

Analysis and panel's decision: EAPWDR section 55(2)

In addition to meeting the definition of “moving cost” in section 55(1), the Regulation also requires the move to be for one of the legislated purposes set out in sections 55(2) (a) to (e). The ministry argued that the appellant was not moving for any of those purposes, noting that she was not moving for confirmed employment; to avoid imminent danger to her physical health; or to another province or country. The ministry further noted that her two temporary accommodations were not being sold, demolished or condemned; and the appellant’s shelter costs have also not been significantly reduced.

The appellant argued that she was “forced to move” from the temporary accommodation because the owner was returning to occupy the home. The appellant acknowledged that the owner’s house was not being sold, demolished, or condemned. The appellant noted that the owner had agreed to allow her to rent his home for three months only while she searched for permanent accommodations. The appellant confirmed that most of her belongings were already in storage. Although the ministry’s background information [*Decision to be Reconsidered*] indicates the appellant stated that she also moved to her current residence “because of reduced rent”, the ministry record indicates that her rent was \$600 per month at both her previous and current residences. The appellant did not dispute this at the hearing. The evidence indicates the appellant was not moving for any of the legislated reasons and the panel therefore finds that the ministry reasonably applied section 55(2) of the EAPWDR in the circumstances of the appellant.

Appellant's additional arguments

The appellant provided in depth submissions regarding the ministry’s process for reviewing her request for the moving supplement and on the legislation which, in her view, is completely inadequate for addressing her particular circumstances. She emphasized that “even getting estimates for movers was a problem” and it took a lot of her resources, “gas, energy, and time” to run around to gather quotes from movers and submit them to the ministry. She argued that people often give up and turn to drugs when they are required to jump through the ministry’s hoops, only to be denied.

The appellant further stated that the ministry then told her to go to charities to acquire furniture since the ministry was not providing a moving supplement. The appellant said she “does not want someone’s bug ridden beds” when she has her own “perfectly good stuff” in storage. At the hearing, the ministry stated that while it sympathizes with her frustration, the initial request for a moving supplement is made to a front-line ministry worker. This worker does not have complete information to make a decision and that is why the ministry’s process requires the person requesting assistance to submit three quotations from movers. The ministry stated that while it would take into account the temporary nature of the person’s accommodations, the request for the moving supplement must still meet the legislated criteria.

The appellant said that while she appreciates that ministry staff and the panel did not write the legislation, “it is ridiculous” that the Regulation omits circumstances like being forced into a mandatory move when the owner takes possession of the accommodations, especially with the lack of affordable housing in BC. She stated further that she “does not run to the ministry for every little thing” and if her appeal is refused, she was told to contact the premier’s office and provide them with a copy of the panel’s decision. The appellant emphasized that all of her moves were mandatory and she was forced to leave her belongings in storage because her two previous accommodations were “pre-arranged” to be temporary. The appellant reported that she has been forced to sleep on the floor at her new residence because her bed is still in storage. The appellant said the ministry’s refusal to pay to move her belongings has caused her so much stress that she has been hospitalized three times since September 2, 2017. The panel acknowledges that the appellant is clearly frustrated with the current legislation. Unfortunately, section 55(2) of the EAPWDR does not cover the situation in which a landlord or owner is taking possession of a person’s temporary accommodations.

Conclusion

The panel finds that the ministry’s reconsideration decision that found the appellant ineligible for a moving supplement to move her belongings from a storage facility and from her previous temporary accommodation was a reasonable application of section 55 of the EAPWDR in the circumstances of the appellant. The panel confirms the ministry’s decision and the appellant is not successful in her appeal.