

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated September 11, 2017, which denied the appellant's request for a moving supplement. Although the ministry is satisfied that the appellant does not have funds to move to another country, he did not provide sufficient evidence to demonstrate that the proposed move to another country would improve the living circumstances of the appellant as prescribed under subsection 55(2)(b) of the Employment and Assistance for Persons with Disabilities Regulations (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Act (EAPWDA), section 5

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Sections 55.

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration included a:

1. Request for an extension due to a delay in accessing advocacy services from Disability Support Advocate, dated August 11, 2017.
2. An information form with handwritten notes dated July 6, 2017.
3. Request for Reconsideration (RFR) dated August 10, 2017 with the following attachments:
 1. a three page letter from the appellant's advocate,
 2. a text of the relevant legislation section 55 of the EAPWDR;
 3. bank statements,
 4. a copy of the appellant's passport from his country of origin and
 5. a copy of Canadian Citizenship document.

The said letter (item 1 above), amongst other matters, states that:

- the appellant became disabled in 2003 and found himself applying for Persons with Disabilities status ("PWD") [after arriving as a refugee in Canada in February 1994];
- he worked in his area of expertise and very much enjoyed his past work experience in his country of origin.
- he has since been unsuccessful finding suitable and gainful employment in his area of expertise in Canada due to physical limitations;
- he is currently receiving only the PWD support portion benefits as he is now homeless;
- he is able to move back to his country of origin with no legal issue;
- the reason for the appellant's moving request back to his country of origin is to improve his living circumstances;
- he is currently unable to find affordable house and has been homeless since June 2017;
- he must deal with the dangers of living on the streets, which include but are not limited to, assault, theft, and abuse;
- he has been a victim of discrimination and racism on several occasions;
- he finds himself unable to trust others and is socially isolated;
- all such factors are additionally contributing to deterioration of his physical and mental well-being;
- he does not have any friends or family in Canada, but has many friends and family members in his country of origin who will be able to provide him with a supportive environment;
- due to time served in the armed forces of his country of origin, he will be able to purchase food, clothing, furniture and household goods at little or no cost and receive full access to medical care in his country of origin;
- he is eligible to receive land from the government of his country of origin and also receive a grant for building his own home; and
- his move back to his country of origin would be permanent."

Evidence on Appeal

Notice of Appeal (NOA) which is signed and dated October 3, 2017 and included:

- a letter from the appellant dated October 3, 2017 stating that the two documents attached to his letter from his country of origin support that he will have income in his home country that will improve his living circumstances;
- an undated document from the armed forces of his country of origin that states that the appellant's services to his country are acknowledged and appreciated; and
- another document dated 12th April 1986, also from the armed forces of his country of origin that mentions the name of the appellant, amongst the names of other persons, as being eligible for a settlement of their account from the country of origin.

Hearing

The appellant did not attend the hearing. The panel waited for him for 15 minutes past the scheduled time of the hearing. Thereafter, the panel confirmed that the appellant was duly notified of the date, place and time of the hearing and proceeded to hear the appeal under s.86(b) EAR.

Evidence at the Hearing

None.

At the hearing the ministry relied on its reconsideration decision.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision, which denied the appellant's request for a moving supplement to move to another country to improve his living circumstances, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation requires the following:

Employment and Assistance for Persons with Disabilities Act

Disability assistance and supplements

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

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

The Appellant's Position

The appellant's position is that he does not have the resources to cover the cost of moving to his country of origin. The Appellant submits that he is moving to his country of origin to improve his living circumstances. He further submits that he is homeless and that his health is deteriorating. Due to time served in the armed forces of his country of origin, he will be able to purchase food, clothing, furniture and household goods at little or no cost and receive full access to medical care in his country of origin. That he is eligible to receive land from the government of his country of origin and also receive a grant for building his own home.

The Ministry's Position

The ministry's position is that although the appellant does not have the resources to cover the cost of moving to his country of origin, the appellant has not established that he is required to move to improve his living circumstances, including that he:

- (i) failed to demonstrate that he has secured accommodation in his country of origin;
- (ii) has not provided any evidence to confirm that he will be able to obtain land and money in his country of origin to build his own home.

The ministry further noted that:

- (i) the government support expected by the appellant from his country of origin was phased out by the end of 2015; and
- (ii) the appellant is currently in receipt of support allowance for food and clothing in BC; has medical coverage and access to medical care; and there are community resources available to help the appellant with food, furniture and household goods at no cost;
- (iii) the appellant has not provided any evidence to confirm, from a medical practitioner, that his physical and mental well-being will improve by moving to his country of origin.