

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision of September 25, 2017 in which the ministry denied the Appellant’s request for a moving supplement. The Ministry determined that the Appellant did not meet the requirements for a moving supplement pursuant to section 55(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

EAPWDR section 55(2) and (3)

PART E – Summary of Facts

The appellant is designated as a single person in receipt of Employment Assistance for Persons with Disabilities assistance. The forms in the appeal record have all been signed by the appellant's mother and a release of information form dated October 12, 2017, signed by the appellant and his mother authorizing her to be his representative at the hearing, is also part of the appeal record.

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

- a request for reconsideration form signed by the appellant's mother on September 14, 2017 in which she provided a history of the appellant's situation and reasons for requesting the reconsideration, summarized as:
 - that the appellant suffered severe brain injury and multiple physical injuries in an accident out of the country resulting in him requiring specialized therapies that were not available in BC so they were provided with moving costs by the ministry to move to another province in 2010;
 - that they had various concerns about both of their medical treatment in the other province so her mother paid for a flight to return them to BC leaving all their belongings, including the appellant's disability equipment that the province of BC had purchased for him, behind in a storage unit that she continues to pay rent on;
 - that they returned to BC with only a suitcase of summer clothing and that all their winter clothing, entertainment, household belongings, and vehicle are also in storage;
 - that the appellant requires his various entertainment equipment as there are no services available to him;
 - that the appellant is currently using loaned medical equipment from the Red Cross but that some of it is outdated and dangerous;
 - that the appellant's mother requires her vehicle as all the appellant's equipment can fit in it and she uses it to take them to various medical appointments; and
 - that she provided three moving quotes with the lowest estimate being \$10,709.90.
- an email dated July 3, 2017 from the appellant's mother, which was faxed to the ministry on July 4, 2017 requesting that all their belongings be moved from another province to BC. The email contained most of the same information noted above and also included:
 - that they had no furniture so they found some basic furniture, that the ministry bought them new double beds and that the appellant has a \$5,000 disability bed in storage;
 - that they spend a lot of money on taxi rides or renting vehicles to attending various appointments and to get around;
 - that the whole ordeal has been extremely stressful and has caused unimaginable hardship which has to stop before the appellant's mother ends up in hospital which would result in the appellant being cared for by the province
- a moving estimate 1 dated June 30, 2017 for \$12,978.04
- a moving estimate 2 dated June 28, 2017 for \$11,163.20
- a moving estimate 3 dated June 27, 2017 for \$10,709.90

In the Notice of Appeal dated September 26, 2017 the appellant's mother wrote that their rental cost now in BC is \$850 compared to the previous province where it was \$1340; that she's been seeking help from the premier's office; that the Red Cross equipment was on loan for three months only and must now be returned; that they have to apply for new medical equipment at a cost of approximately \$1800 for just a few items, and that the moving company quote estimate is approximately \$10,000 which is probably \$3,000 less because the weight of their belongings had been over-estimated.

At the hearing, the appellant's representative commented on all of the items noted above in the Summary of Facts to explain why they were requesting assistance with moving their belongings from another province. The appellant's representative emphasized that they were previously residents of BC who had received assistance from the ministry to move their belongings in 2010 to another province so he could receive therapy not provided in BC. She cited the reasons for needing to leave the other province to return to BC were: that the appellant had gone as far as he could with the therapy provided there so he was ready to return home; concern that the appellant was being mentally abused by people; that the air quality was poor; and that the weather was so different than they were used to, to such an extent that the ministry in the other province provided a special air conditioner/humidifier for them.

The appellant's representative stated that she had been in contact with the minister's office here in BC and that a person working there led her to believe that if she could get the information in before he retired that he would do all he could to assist her with moving back, but that she did not provide any documentation in time for that to happen. She also highlighted that she had spoken to a ministry supervisor after returning to BC who led her to believe the ministry would pay for moving the belongings if she were to submit three moving estimates, which she did.

At the hearing, the ministry reviewed each sub-section of section 55(2) to ensure she understood which section the appellant thought would be applicable in the appellant's circumstance. The ministry noted that the only sub-section that seemed somewhat relevant in the appellant's situation was for the circumstance where a person is moving to another province to improve their living circumstances but that the appellant did not meet the eligibility criteria for that. The reconsideration decision also confirmed that although the appellant did meet the criteria for section 55(3) in that there are no resources available and prior approval would be required, the criteria for section 55(2) had not been met.

PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry reconsideration decision in which the ministry denied the Appellant's request for a moving supplement because the Appellant did not meet the requirements for a moving supplement pursuant to section 55(2) of the EAPWDR was reasonably supported by the evidence or a reasonable application of the legislation.

The relevant sections of the legislation are as follows:

Employment and Assistance for Persons with Disabilities Regulation

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.

The appellant's position is that the ministry moved them to the other province and that they should pay to move their belongings back to BC. The appellant's representative argues that their living conditions in the other province were such that they could no longer live there and that because they have been BC residents in the past they wanted to return home to family and a better life. The appellant's representative argues that appellant requires all his medical equipment and personal belongings and she requires her belongings and vehicle to allow them to live as comfortably as they can in BC.

The ministry's position is that in order to be eligible a supplement for moving, the request must meet one of the criteria set out in section 55(2) and all of section 55(3). The ministry argues that the appellant did not meet the eligibility requirements of section 55(2).

Section 55(2) of the EAPWDR states that, subject to subsection (3) the minister may provide a supplement to or for a family unit that is eligible for disability assistance with 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. The panel finds that this criterion does not apply in this case.
- To another province or country, if the family unit is required to move to improve its living circumstances. Although the ministry did pay to move the appellant from this province to another seven years ago, the current request is to pay for a move **from** another province **to** this province. The appellant's argument, that he had to leave the other province for various reasons and that he has a much better life near family in BC, is not unreasonable. However the appellant is not moving **to another** province as is required by the legislation. The panel finds it reasonable to interpret this criteria as being the method the ministry uses to pay a moving supplement to current residents of BC to move them out of BC to another province. As the appellant is not moving **to** another province from BC, he is moving **into** BC, the panel finds that the ministry reasonably determined that this criterion has not been met.
- 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. The panel finds that this criterion does not apply in this case.
- 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. Although the appellant's rent is lower in BC than in the other province, the appellant was not moving within a municipality or to an adjacent municipality so the panel finds that this criterion does not apply in this case.
- To another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit. The appellant is not moving to another area in BC, so the panel finds that this criterion does not apply in this case.

Section 55(3) states that a family unit is only eligible for a moving supplement if (a) there are no resources available and (b) that prior approval is received. The minister accepted that the appellant does not have resources available to cover the cost of the move and that the appellant has not yet incurred the cost of moving his belongings and is seeking prior approval. The panel finds that although the requirements of section 55(3) have been met, the appellant must also meet the requirements of at least one of the criteria of section 55(2), which the panel finds he has not met.

Conclusion

The panel finds that the ministry's determination that the appellant was ineligible for a moving supplement under Section 55(2) of the EAPWDR because he did not meet the eligibility criteria was reasonably supported by the evidence and is a reasonable application of the legislation.

The panel therefore confirms the ministry's decision. The appellant is not successful on his appeal.