

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision of September 21, 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 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry determined that the circumstances of the appellant’s move were not any of those set out in subsection (2)(a)-(e), and that she had not received prior approval as required under subsection (3)(b).

**PART D – RELEVANT LEGISLATION**

EAPWDR section 55

## **PART E – SUMMARY OF FACTS**

The appellant is designated as a single person in receipt of Employment Assistance for Persons with Disabilities assistance.

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

- a request for reconsideration form signed by the appellant on September 12, 2017 in which she provided as her reasons for requesting the reconsideration the following:
  - that she had been told she was not eligible because she had been evicted for non-payment of rent however that was not the case as she had filed a dispute resolution with the landlord which was to take place September 29, 2017 and that she is disputing that as she does not pay rent;
  - that she has called the RCMP three times on her landlord which was extremely stressful, that she has suffered anxiety attacks, and moved out and slept in her van with her dogs for 4 or 5 nights as she could not deal with the situation;
  - that all of this information had been given to the ministry before she moved and that she could not change her plans to wait for the ministry help, so is now indebted to the two men who moved her and now does not have the money to pay them.
- a service request form date stamped August 31, 2017 from the appellant to the ministry noting that she has made three or four trips back and forth from her community to another and that she has a receipt to move her belongings;
- a receipt dated August 30, 2017 for \$150 for cost of moving the appellant and her belongings;

In her Notice of Appeal dated September 26, 2017 the appellant wrote that not funding her move is a miscarriage of humanity because she had to sleep in her van with her dogs for 2 days at a rest stop, that she has a broken jaw and cannot eat certain foods, no money for gas to keep warm as her cheque had been withheld that month, and that these are the reasons for her appeal.

At the hearing, the appellant phoned in to request the hearing be cancelled. The panel chair explained to the appellant that the request for dismissal must be made in writing and must have the consent of both parties. The appellant indicated she was going to go to the ministry office right away to sign the request to dismiss and left the call.

At the hearing, the ministry relied on its reconsideration decision and noted that the appellant had paid for the moving costs on her own and did not have the prior approval of the minister as is required by section 55(3)(b).

## **PART F – REASONS FOR PANEL DECISION**

The issue under appeal is 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 of the EAPWDR was reasonably supported by the evidence or a reasonable application of the legislation. Specifically, the ministry determined that the circumstances of the appellant's move were not any of those set out in subsection (2)(a)-(e), and that she had not received prior approval as required under subsection (3)(b).

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 she had asked the ministry for funds to move to a different community as she had to leave her residence due to being in a dispute with her landlord and because the situation had gotten so out of control it caused her anxiety. The appellant argues that she had provided this information to the ministry prior to her moving but because she could not wait for their decision she went ahead and moved with the help of two people, to whom she now owes \$150.

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) nor did she have the prior approval of the minister as required in section 55(3).

### **Panel Decision**

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. As the appellant is not moving to another province from BC, 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 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. Although the appellant did move to another municipality there is no evidence that indicates that the reason for moving was due to her residence being sold, demolished or condemned so 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 if the family unit's shelter costs would be significantly reduced as a result of the move. Although the appellant did move to an adjacent community there is no evidence that indicates the amount of rent being paid has been reduced so the panel finds that the ministry reasonably determined that this criterion has not been met.
- To another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit. Although the appellant indicated that she had called the RCMP and had anxiety and was under stress, the ministry has reasonably concluded that the information does not indicate or establish that there was an imminent threat to the appellant's physical safety.

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, however because the appellant paid for the move herself on August 30, 2017, prior to contacting the ministry about her move, and therefore did not have the prior approval of the minister the panel finds that the ministry reasonably determined that the requirements of section 55(3) have not been met.

### **Conclusion**

The panel finds that the ministry's determination that the appellant was ineligible for a moving supplement under Section 55 of the EAPWDR because she 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 her appeal.