

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated 03 November 2017 that denied the appellant's request for a moving supplement to cover the costs of a move from City A to City B. The ministry held that the request did not meet all the applicable criteria set out in section 55 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically the ministry found that the information provided did not establish that the request met the following requirements:

- Any of the “move to/for the purpose of” criteria set out in subsection (2) of section 55;
- Receiving the minister's approval before incurring the moving costs, as required under subsection (3)(b); and
- The cost is the least expensive appropriate mode of moving, as required under subsection (4)(a).

### **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 included the following:

1. The appellant is a recipient of disability assistance.
2. From the ministry's files, as reported in the reconsideration decision and summarized by the panel:
  - Since February 2014, the appellant had lived in City A in subsidized independent housing, with rent at \$525 per month paid directly to the landlord.
  - 20 April 2017: the appellant advised the ministry that he would like direct payments to his landlord to be stopped because he was anticipating a move within the next few months
  - 20 July 2017: the appellant advised the ministry that he was asked to move from his residence because his landlord discovered that he is gay. He indicated that he would be moving to his brother's place in City B and requested help with moving costs. The ministry worker discussed the criteria under which the ministry may approve a moving supplement and advised him that his request did not appear to meet the criteria.
  - 09 August 2017: the appellant provided the ministry a Shelter Information Form confirming that he moved to City B on 01 August 2017 and pays \$500 per month in rent. He provided a receipt for shipping boxes to city B for \$98.45 and an airline ticket receipt for a flight from City A to City B for \$387.69. He requested reimbursement for these amounts. He also provided a copy of a prescription for [an antibiotic] and indicated he had a lung infection and travel by bus was not an option.
3. The appellant's Request for Reconsideration is dated 24 October 2017. Under Reasons, the appellant writes that he is asking that his request for travel/transportation cost be accepted, as he had nowhere to live in City A. He states that he had exhausted every possible lead for housing in City A and with his health it is impossible for him to be homeless and he would have become very ill.

He states that he should have obtained prior approval for transportation costs, but he was very stressed, confused and anxious – it was a difficult time for him, and making clear decisions and taking proper steps seemed impossible for him at the time. He submits that under these circumstances he should not be disqualified because he did not obtain prior approval. He argues that he has moved to a far cheaper place this time, as well as to an emotionally and psychologically better environment, explaining that he suffers from depression and has an anxiety disorder, both of which were getting worse in City A.

He goes on to write that he has a limited income and having to pay \$387 for transportation has really created a financial nightmare for him. He has bills that need to be paid and has been unable to. Having this money reimbursed would set things straight for him and would make a huge difference in the months to come. He does not drink, do drugs or smoke and tries to handle what money he has as effectively as possible. In July he faced situations beyond his control and the only decision best for him was to leave City A. He hopes that the ministry can truly understand his situation and can rescind its decision.

## **Notice of Appeal**

The appellant's Notice of Appeal is dated 08 November 2017. Under Reasons for Appeal he writes:

“In the reconsideration decision sent to me, the information is not correct. It appears the ministry does not record the facts properly, which in turn creates a misleading set of facts. I also find the decision to discriminate and present bias.”

## **The hearing**

The appellant did not attend the hearing. After confirming that the appellant was notified of the hearing, the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

The ministry stood by its position at reconsideration. In answer to a question, the ministry acknowledged that there might have been an error in the reconsideration decision regarding the amount cited for the amount the appellant paid in shipping costs. The bill of lading shows “delivery charges” of \$98.45, the amount cited in the reconsideration decision. However, the bill of lading also shows \$18.41 for insurance and \$5.84 for GST, for a total of \$122.70. The ministry explained that this discrepancy would have made no difference to the conclusions reached in the reconsideration decision.

## PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry was reasonable in denying the appellant's request for a moving supplement to cover the costs of a move from City A to City B under section 55 of the EAPWDR. More specifically, the issue is whether the following ministry determinations were reasonably supported by the evidence or were a reasonable application of the legislation in the circumstances of the appellant:

The information provided did not establish that:

- Any of the "move to/for the purpose of" criteria set out in subsection (2) of EAPWDR section 55;
- Receiving the minister's approval before incurring the moving costs, as required under subsection (3)(b); and
- The cost is the least expensive appropriate mode of moving, as required under subsection (4)(a).

The relevant legislation is from the EAPWDR:

### 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) [not applicable].

(g) [not applicable]

(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.

### Analysis

In the reconsideration decision, the ministry found that as all of the legislated criteria under EAPWDR section 55 have not been met, the ministry determined that the appellant is not eligible for the requested supplement for moving from City A to City B and therefore it is not permitted to reimburse the costs of the airline ticket and shipping expenses. In reaching this conclusion, the ministry reviewed the information available to it regarding the appellant's move from City A to City B (see Part E above), then applied this information to the applicable provisions of EAPWDR section 55 as discussed below.

#### *“Move to/for the purpose of” criteria*

Regarding the criteria in subsection 55(2), the panel has summarized the ministry's reasons for denial as follows:

| <b>ss. 55(2) para</b> | <b>Move to:</b>                       | <b>For the purpose of</b>                                    | <b>Ministry reasons</b>   |
|-----------------------|---------------------------------------|--|---|
| (a)                   | Anywhere in Canada                    | Employment   | Appellant not required to move to begin employment.   |
| (b)                   | Another province or country           | Improve living circumstances                                 | City B is not in another province or country.   |
| (c)                   | Within or to an adjacent municipality | Current accommodation is being sold, demolished or condemned | City B is not adjacent to City A (>700 km. distant) <u>and</u> move not required because current accommodation is being sold, demolished or condemned |
| (d)                   | Within or to an adjacent municipality | Shelter costs would be significantly reduced                 | City B is not adjacent to City A (>700 km. distant).  |
| (e)                   | Another area of BC                    | Avoid an imminent threat to physical health                  | Appellant has not provided any evidence to suggest that he was required to move from his residence to avoid imminent risk to physical safety.         |

The panel finds that, given that the appellant's move to City B was not for employment purposes, and that City B is in BC and more than 700 km. from City A, the ministry reasonably determined that the criteria set out in para (a) to (d) did not apply.

In terms of para (e), in his Request for Reconsideration the appellant argues that it was necessary to move out of his residence in City A, and because of the tight housing market in that city, he faced homelessness unless he moved to be with his brother in City B. He argues that because of his medical conditions, he would have become very ill if he were to have become homeless. While the panel considers that homelessness (“living on the street”) might pose a risk

to physical health, there is no confirmation from a medical professional that this might be the case for the appellant and that such a risk would be imminent. Moreover, as the ministry noted at the hearing, there is no confirmation that the appellant was given an eviction notice to end his tenancy at his residence in City A. There is also insufficient evidence that would demonstrate that moving out of that residence was otherwise not avoidable. Further, as the ministry noted in the reconsideration decision, there is insufficient evidence to demonstrate that staying in this residence in City A would have posed a risk to his physical safety.

Considering the above, the panel finds that the appellant's move from City A to City B did not meet any of the criteria set out in subsection (2) of EAPWDR section 55.

#### *Minister's prior approval*

In its decision, the ministry stated that although the appellant requested assistance for a potential move to City B, a review of his file suggests that he was informed on 20 July 2017 that he did not appear to meet the eligibility criteria for a moving supplement, yet he decided to move anyway. As a result, the ministry is not satisfied that he received the minister's approval before incurring his moving costs, as required under subsection 3(b) of section 55.

In his request for reconsideration, the appellant acknowledged that he did not obtain prior approval for the moving costs, but he was very stressed, confused and anxious – it was a difficult time for him and making decisions and taking proper steps seemed impossible for him at the time. He submitted that under these circumstances not obtaining prior approval should not disqualify him from being eligible for the supplement.

The intent of subsection 3(b) is to ensure that clients request assistance prior to commencing a move rather advising the ministry after the fact and after having incurred significant costs.

In this case, the appellant discussed with the ministry the potential for the supplement before his move and was advised by a ministry worker that it appeared he did not meet the legislated criteria, with those at issue at that time being the "move to/for the purpose of" criteria set out in subsection (2). The panel finds that, given that the appellant had discussed possible assistance with the ministry prior to his move, the ministry was unreasonable in applying subsection 3(b) as a reason for denial of the appellant's request after his move.

#### *Least expensive mode of moving*

In its decision, the ministry noted that the appellant had indicated that he was required to fly to City B instead of taking a bus because of a lung infection. The ministry held that although the appellant provided a prescription label for an antibiotic, he has not provided confirmation of his medical condition or that it would be unsafe for him to travel by bus. As a result, the ministry was not satisfied that his request is for the least expensive appropriate mode of moving from City A to City B. The panel considers reasonable the ministry's policy that any moving costs justified on medical grounds be substantiated by the independent and professional opinion of a medical practitioner or nurse practitioner. The panel therefore finds that the ministry reasonably determined that the information provided did not establish that the appellant's request that the requirements of section 55 (4)(a).

### *Other considerations*

In the reconsideration decision, the ministry noted that the receipt the appellant provided for the airline ticket indicates that he paid by credit card. The ministry stated that it does not consider current personal credit card debt as a resource available to him and as such determined that he does not have the resources available to cover the costs of his move, therefore meeting the requirement set out in EAPWDR section 55(3)(a).

At the hearing, referring to the appellant's Notice of Appeal, the ministry stated that the reconsideration decision was made without discrimination or bias. The panel finds that the ministry's decision was reached by reasonably applying the legislation to the information available to the ministry and as such cannot be said to reflect any discrimination or bias.

### *Conclusion*

Based on the foregoing, the panel finds that the ministry decision that denied the appellant's request for a moving supplement to cover the costs of his move from City A to City B is reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision. The appellant is thus not successful on appeal.