

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (the “ministry”) Reconsideration Decision of October 19th, 2017 in which the ministry deemed the appellant not eligible for a moving or crisis supplement because the appellant did not provide sufficient evidence that the legislative criteria had been met; pursuant to Section 57 & 59 of the Employment and Assistance Regulation.

PART D – RELEVANT LEGISLATION

- EAR - *Employment and Assistance Regulation, Section 57 & 59*
- EAA - *Employment and Assistance Act, Section (4)*

PART E – SUMMARY OF FACTS

The information before the ministry at the time of reconsideration included the following:

- 1) The appellant is a sole recipient of income assistance.
- 2) **May 9th, 2017** – The ministry notes that on this day, the appellant made a request for a moving supplement to pay for the storage of his personal belongings because the appellant did not have accommodations at that time. The appellant indicated in this request, that he had been evicted from his accommodation and was forced to store his personal belongings while he lived in his car.
- 3) **August 15th, 2017** - The ministry notes that on this day, the appellant made a request for a crisis supplement to pay for his storage fees. The ministry notes that the appellant was advised of the criteria for a crisis supplement and that a failure to pay storage fees would not result in an imminent danger to the appellants physical health. The appellant was advised that he would not qualify for a crisis supplement under his current situation. The appellant noted that the ministry could not be aware whether or not the appellant was in imminent danger because they could not know whether or not the appellant would kill himself if he were to lose his personal belongings. The ministry worker asked the appellant if he were suicidal, and the appellant answered “no”. The ministry worker advised that the service request would be made, but unless the appellant met the criteria for the crisis supplement, the request would be denied.
- 4) **August 31st, 2017** – The ministry notes that they received a copy from the storage company of the appellant’s outstanding storage fees, which indicated a balance of \$1111.20 owing from June 2017 to August 2017. The ministry noted that the appellant indicated his ex-spouse was supposed to pay the fees for the locker, and was not. Further, the appellant noted that he would be willing to sign a re-payment agreement for the storage fees if the ministry were to assist.
- 5) **August 31st, 2017** – An emailed invoice for the outstanding storage fees of \$1111. 20 provided to the appellant by the storage company.
- 6) **September 13th, 2017** – The ministry notes that on this day, the appellant was denied his request for a crisis supplement.

Additional Information

At the hearing, the appellant submitted a dated November 17th, 2017 rental application. The panel determined that this evidence was not admissible under section 22(4) of the *Employment and Assistance Act* as it was not in support of the information that was before the reconsideration officer at the time the decision was made, nor did it have any weight or bearing on the appealed decision.

The ministry did not object to the admission of the information.

At the hearing, the ministry relied on the reconsideration decision and did not introduce any additional evidence.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of October 19th, 2017 in which the ministry deemed the appellant not eligible for a crisis or moving supplement because the appellant did not provide evidence that the legislative criteria had not sufficiently met; pursuant to Section 57 & 59 of the Employment and Assistance Regulation (EAR).

The relevant sections of the legislation are as follows:

Employment and Assistance Act

Income assistance and supplements

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

Employment and Assistance Regulation

Supplements for moving, transportation and living costs

57 (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 income assistance, **other than as a transient under section 10 of Schedule A**, 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 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 20 [*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.

Employment and Assistance Regulation

Crisis supplement

59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if

(a) the family unit or a person in the family unit **requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and**

(b) the minister considers that failure to meet the expense or obtain the item will result in

(i) imminent danger to the physical health of any person in the family unit, or

(ii) removal of a child under the *Child, Family and Community Service Act*.

Panel Decision

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for a crisis supplement to pay for his outstanding storage fees pursuant to Section 59 of the EAR or eligible for a moving supplement as per Section 57 of the EAR. In his Notice of Appeal dated October 30th, 2017 the appellant stated that he disagrees with the decision to deny the supplement(s) on the basis that the ministry should not have considered him a transient, by definition, as he was only living in his vehicle for a short time and only as a result of having nowhere else to go. Further, the appellant noted at the hearing that his situation was unexpected, he was relying on his ex-spouse to pay the rent and she failed to do so, which ultimately forced the appellant to have to store his belongings and move into his car.

Crisis Supplement

The ministry notes that the purpose of a crisis supplement is to address unexpected emergency needs to prevent imminent danger to health and not intended to pay for outstanding bills. Further, the ministry notes that under Section 59 of the EAR, a crisis supplement can be provided if all three of the following criteria are met; **1) The need for the item is unexpected;** the ministry's position is that the appellant's storage fees are not unexpected. The appellant had established his storage unit for a number of months (three months prior to applying for the supplement), and had paid fees for the few months before making the request for the crisis supplement. The ministry contends that the appellant knew or ought to have known that the expenses for storage were on-going on a month to month basis, and could not be unexpected - as he would have signed the contract for the storage of his belongings. Referring to the second criteria, **2) Failure to obtain the necessary supplement will result in imminent danger to health** or the removal of a child under the *Child, and Family Community Service Act*. The ministry notes that while the appellant indicates he may be adversely affected by not having access to his personal belongings, the ministry notes that the appellant did not provide sufficient evidence to support the probability of immediacy that failure to obtain the supplement would place the appellant's physical health at risk or in imminent danger, and therefore, this eligibility requirement has not been met.

Thirdly, **3) There are no alternate resources available to obtain the item or meet the expense.** The ministry is satisfied that the appellant has no resources to cover the cost of the storage fees. In sum, the ministry provides that this eligibility requirement has been met.

The ministry's position is that because the appellant's request does not meet all three of the required eligibility criteria, approval for a crisis supplement cannot be granted.

Section 59 of the EAR states that the minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if (a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet

the expense or obtain the item because there are no resources available to the family unit, and (b) the minister considers that failure to meet the expense or obtain the item will result in (i) imminent danger to the physical health of any person in the family unit, or (ii) removal of a child under the *Child, Family and Community Service Act*.

While the panel acknowledges the appellant's potential loss of his personal items is of concern, it finds that the appellant did not provide sufficient evidence to support his claim of probable risk or threat of real imminent danger to his physical health if the crisis supplement for storage fees was not granted under section 59 of the EAR. The panel provides that an example of real and likely imminent danger to physical health would refer to circumstances where an appellant would require adequate winter clothing in sub-zero weather. In the appellant's circumstance, the panel considers that it is a reasonable concern for the appellant that he may adversely be affected by the loss of his personal belongings, but that the concern is not reasonably considered imminently dangerous to his physical health.

Further, the panel finds that the ministry was reasonable in its determination that the storage fees were not an unexpected expense. The panel confirms the reasonableness of the ministry to determine that the appellant had established his storage unit for a number of months (three months prior to applying for the supplement), and had paid fees for the few months before making the request for the crisis supplement. The panel confirms that the appellant knew or ought to have known that the expenses for storage were on-going on a month to month basis, and not unexpected, as he would have knowingly entered into the agreement with the storage company and would have signed the contract for the storage of his belongings.

Accordingly, the panel finds that the ministry was reasonable to determine that the evidence does not support the appellant having met all of the eligibility criteria, other than the appellant not having the resources to pay for the storage fees as per Section 59(1) of the EAR.

Moving Supplement

Section 57(2)(a-e) of the EAR states that the minister may provide a moving supplement to or for a family unit that is eligible for income assistance, **other than as a transient** under section 10 of Schedule A, 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;** the ministry provides that the appellant has not established that he was applying for this reason, and therefore does not meet this criteria, or **(b) moving costs required to move to another province or country, if the family unit is required to move to improve its living circumstances;** the ministry provides that the appellant has not requested the supplement for this reason, and therefore, does not meet the eligibility, or **(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 notice to vacate has been given, or has been condemned;** the ministry provides that the appellant is seeking costs associated with unpaid storage fees, as a direct result of being evicted from his living accommodations due to unpaid rent, thus he does not meet this criteria as his accommodations were not sold or demolished and or, **(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;** the ministry provides that the appellant is not seeking the moving supplement for this reason, as stated previously, and therefore does not meet the criteria, and or **(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;** the ministry submits that the appellant does not meet this criteria due to his request made for a moving supplement to pay for storage fees, and not for the reason of relocating himself in order to avoid a threat to his personal safety.

Further, the ministry submits that the appellant's request does not meet any of the above listed reasons, in addition to the fact that the request for the moving supplement was made after the appellant had incurred the cost, which as a legislative requirement, must be pre-approved by the ministry pursuant to section 57(3)(b).

Lastly, the ministry provides that in addition to not meeting any of the above criteria for a moving supplement, the appellant was considered a transient by definition, as he was living in his car at the time that he made the request for a moving supplement, and therefore excluded from consideration under section 10 of Schedule A.

The panel finds that the appellant did not provide evidence to establish that he met any of the eligibility criteria listed in Section 57(2)(a - e), as his stated reasons for the request were to pay for outstanding storage fees – and not for relocation purposes, or to avoid an imminent threat to personal safety, as per the legislative criteria. Further, the panel finds that the evidence establishes, that the appellant accrued the costs of the storage unit prior to making the request for the supplement, which according to section 57 (3)(b) of the EAR, he was to establish prior approval from the ministry before incurring those costs in order to be considered for eligibility. Further, the panel finds that in addition to the appellant not meeting any of the legislative criteria under section 57(2)(a-e), and not having established prior approval for the supplement from the ministry as per section 57(3)(b), the fact that the appellant confirmed he was living in his car at the time he made the request, the panel finds that this self-confirmation of transient status (of without a fixed address) renders him ineligible for consideration of the moving supplement under section 10, of Schedule A.

Accordingly, the panel finds that the decision of the ministry to deem the appellant not eligible for a crisis or moving supplement due to not meeting all of the eligibility requirements of Section 59(1) & Section 57(2)(a-e) & (3)(b) of the *Employment and Assistance Regulation*, a reasonable application of the applicable enactment in the circumstances of the appellant. Therefore, the panel confirms the ministry's decision pursuant to section 24(1)(b) and section 24(2)(a) of the Employment and Assistance Act. The appellant therefore is not successful in his appeal.