

## **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry's reconsideration decision dated October 30, 2017, which held that the appellant was not eligible for a moving supplement because the Ministry was not satisfied that her move was for one of the reasons permitted under section 55 (2) (a) to (e) of the *Employment and Assistance for Persons with Disabilities Regulation*. More specifically:

- (a) the appellant was not required to move to begin employment;
- (b) while the appellant may have improved her living circumstances, she was not moving to another country or province;
- (c) the appellant's residence had not been sold, demolished or condemned;
- (d) the appellant's shelter costs were not reduced as a result of the move; and
- (e) the Ministry was not satisfied the appellant was required to move to avoid an imminent threat to her physical safety.

## PART D – RELEVANT LEGISLATION

### ***Employment and Assistance for Persons with Disabilities Act*** (EAPWDA):

#### **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.

### ***Employment and Assistance for Persons with Disabilities Regulation*** (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) 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.

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

## PART E – SUMMARY OF FACTS

At the hearing, the appellant was represented by an advocate. A Vietnamese translator was used to communicate with the appellant.

The appellant is a sole recipient with a “Persons with Disability” designation.

The evidence before the Ministry at reconsideration included the following documents:

- the appellant’s request for reconsideration in which she notes “I disagree with the Ministry’s decision”;
- a medical certificate, dated October 13, 2017 and signed by the appellant’s doctor stating “She is living in rooming house that has been infected with bed bug [sic]. I recommend that she should move to the new place immediately”;
- a letter from an advocate noting that the appellant borrowed money from a friend to move and that the cost (under \$200) was “a very reasonable expense”;
- a vehicle rental contract dated September 29, 2017 for a total of \$177.02;
- a gas receipt dated September 28, 2017 for a total of \$15.00.

In addition, the Ministry considered the following information:

- the appellant contacted the Ministry on September 22, 2017 to request a moving supplement;
- the Ministry contacted the appellant on September 29, 2017 denying the request;
- the appellant was moving due to bed bugs;
- the total cost of the move was about \$200;
- the appellant’s current rent was \$650 per month and her new rent would be \$750 per month; and
- the appellant was moving to a new residence within her current community.

In her notice of appeal, the appellant stated, “I have been on disability since 2005. Had to borrow money to pay for move. Would like cost of move refunded as I do not have the funds.”

At the hearing, the appellant said she had to move because her current living situation was not safe due to the bed bugs, which were brought into the house on a couch. She said to deal with the bed bugs the couch was removed but the bed bugs had already infected the house. She also said she had to move because one of her roommates was abusive: he would knock on her door during the night, causing her to be unable to sleep and to seek psychiatric assistance. Her problems with her roommate resulted in her making a police complaint. She stressed that she has no money to repay the \$200 loaned to her by a friend for the move, and that the move was the best option and improved her living conditions. She worried about the high interest she had to pay on the \$200.

The Ministry relied on its reconsideration decision.

The panel found that the appellant’s new information about an abusive roommate was not admissible as it was not evidence that was in support of evidence that was before the Ministry on reconsideration as per section 22(4) of the *Employment and Assistance Act*.

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

The issue on appeal is whether the Ministry's decision that the appellant was not eligible for a moving supplement for one of the reasons permitted under section 55 (2) (a) to (e) of the EAPWDR was reasonably supported by the evidence or was a reasonable interpretation of the legislation in the circumstances of the appellant.

The Ministry was satisfied that the appellant requested approval prior to incurring moving costs, and that she had no other resources available for the move. The decision at reconsideration turned on whether the appellant satisfied one of the eligibility criteria in section 55 (2) (a) to (e) of the EAPWDR.

Section 55(2)(a) allows for "moving costs required to move anywhere in Canada" if the recipient 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." There was no evidence before the Ministry that the appellant was moving for employment reasons. Therefore, the panel finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(a) to be reasonably supported by the evidence.

Section 55(2)(b) allows for moving costs "required to move to another province or country, if the family unit is required to move to improve its living circumstances." The evidence before the Ministry was that the appellant was moving within her current community—not to another province or country. Therefore, the panel finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(b) to be reasonably supported by the evidence.

Section 55(2)(c) allows for moving costs required to move with a community if the "family unit's rental residential accommodation is being sold or demolished and a notice to vacate has been given or has been condemned." There was no evidence before the Ministry that the appellant's residence was being sold, demolished or condemned. Therefore, the panel finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(c) to be reasonably supported by the evidence.

Section 55(2)(d) allows for moving costs to move within a community "if the family unit's shelter costs would be significantly reduced as a result of the move." The evidence before the Ministry was that the appellant's shelter costs would increase by \$100 per month as a result of the move. Therefore, the panel finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(d) to be reasonably supported by the evidence.

Section 55(2)(e) allows for moving costs "to move to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit." Although there was evidence before the Ministry that the appellant's current residence had bed bugs, including a physician's note recommending that the appellant move "immediately," there was no evidence—such as evidence of a medical condition that would be negatively impacted by exposure to bed bugs—to show that bed bugs comprised an imminent threat to the appellant's physical safety. The panel therefore finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(e) to be reasonably supported by the evidence.

### Conclusion

As there was no evidence before the Ministry at reconsideration to show the appellant met any of the criteria for a moving supplement under section 55(2)(a) to (e) of the EAPWDR, the panel finds the Ministry's reconsideration decision to be reasonably supported by the evidence. The panel confirms the Ministry's decision. The appellant is not successful in her appeal.