

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of September 7^h, 2017 in which the ministry deemed the appellant not eligible for a moving supplement because the appellant did not meet any of the legislative criteria; pursuant to Section 57(2)(a-e) of the Employment and Assistance Regulation.

PART D – RELEVANT LEGISLATION

EAR - *Employment and Assistance Regulation, Section 57*

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 Persons with Persistent Multiple Barriers (PPMB) level assistance with no dependents.
- 2) **June 8th, 2017** – The ministry notes that on this day, the appellant contacted the ministry to request a moving supplement. The appellant submitted a 60-day Notice to Vacate (dated May 1st, 2017) from the appellant's landlord, as well as two moving quotes – both dated May, 2017.
- 3) **July 10th, 2017** - The ministry notes that on this day, the appellant made an inquiry into the status of the request. The appellant was advised that he would be required to provide verification that a move did occur and clarification as to why the initially intended move did not occur (the appellant was intending on moving to point "B" and was denied by the landlord, so the appellant had to move his belongings back to his point "A" residence)
- 4) **July 20th, 2017** – The ministry notes that on this day, the appellant was advised of the decision to deny him a moving supplement. The ministry provides that on this day, the appellant made another moving supplement request (the appellant found a point "C" residence and required his belongings to be moved from his initial point "A" location to his new point "C" location. The ministry advised the appellant that he would need to provide two moving quotes for consideration with his new application.
- 5) **July 24th, 2017** – The ministry notes that they sent the appellant a request for more information regarding his move to a location with higher rent than his previous residence.
- 6) **July 25th, 2017** – The appellant responded to the request for information. The appellant provides that the landlord from point "A" needed to evict him due to needing the space for personal use. The second point "B" landlord refused him the rental agreement because he found a family member to move in to the point "B" location, and therefore the appellant had to move his belongings somewhere. In turn, he had his belongings returned to his first point "A" location. The appellant reported that when he did find shelter, he moved in on June 15th, 2017 and then needed to have his belongings moved to his point "C" current location.
- 7) **July 27th, 2017** – The ministry notes that on this day, the appellant was denied his request for a moving supplement.

Additional Information

At the hearing, the appellant submitted;

- 1) a dated June 8th, 2017 email from the point "B" landlord indicating that the landlord required a criminal record check (CRC) completed before the appellant could move in, as well as a CRC for the appellant's son.
- 2) a receipt for \$2000.00 for the deposit, and rent for June and July on the point "B" location.
- 3) A receipt for the rent paid to the point "C" location for \$1800.00 for June, 2017 (\$1200 rent and \$600.00 deposit).
- 4) June 13th, 2017 – a shelter information ministry form for the point "C" location.

The ministry did object to the admission of all four information items, as they believed that the information provided was not in support of what was before the reconsideration officer at the time the reconsideration decision was made.

The panel determined that the four information items as evidence was admissible under section 22(4) of the *Employment and Assistance Act* as it was in support of the information that was before the reconsideration officer at the time the decision was made, and found that the information provided by the appellant simply verified the timeline of events that he stated had occurred with respect to the moving from point "A" to "B" and then "C". In other words, the new information did not add any weight in either direction of the decision of the panel.

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 September 7th, 2017 in which the ministry deemed the appellant not eligible for a moving supplement because the appellant did not meet any of the legislative criteria; pursuant to Section 57(2)(a-e) of the Employment and Assistance Regulation.

The relevant sections of the legislation are as follows:

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.

Panel Decision

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for a moving supplement as per Section 57 of the EAR. In his Notice of Appeal dated October 5th, 2017 the appellant stated that he disagrees with the decision to deny the moving supplement because he was moving due to no fault of his own, and that he did comply with the initial request to provide two moving quotes before incurring the cost of moving. The ministry provides that regardless of the move; whether to point "B" or "C", the appellant did not move for any of the allowable legislated reasons outlined in Section 57(2)(a-e). At the hearing, the appellant stated that he disagreed with the ministry explanation of why he was denied because the legislation was too restrictive – specifically where it is indicated a residence must be "sold" to qualify for moving expenses.

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 did not establish that he was applying so that he may significantly promote the financial independence of his family unit, and therefore does not meet this criteria. The appellant confirmed at the hearing that the reason for his move was based on the landlord requiring his residence for personal use and therefore, the panel finds that the ministry was reasonable to conclude that the appellant did not meet this legislative reason for moving; and **(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 did not establish that he was applying to improve his living circumstances, and therefore does not meet this criteria. The appellant confirmed at the hearing that the reason for his move was based on the landlord requiring his residence for personal use and therefore, the panel finds that the ministry was reasonable to determine that the appellant did not meet this legislative reason for moving; and 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 a moving supplement so that he can pay for his outstanding moving costs associated with the move from point "A" to "C", and this request is a result of being evicted from his living accommodations due to the landlord needing the space for *personal use*, thus he does not meet this criteria as his accommodations were not sold or demolished or condemned. The appellant provides that the requirement to move was of no fault of his own, and that he attempted to provide the moving quotes in advance of the move. The appellant, at the hearing, confirmed his understanding when the ministry explained that the fact that he had provided moving quotes before the initial move had no bearing on the decision to deny the moving supplement, as the legislative criteria; Section 57(a-e) was what the ministry had relied on in making the determination to deny the supplement. The appellant argued that Section 57(2)(c) specifically, was too restrictive of a definition, as he was required to move from the residence due to no fault of his own. The panel finds that the evidence establishes that appellant was provided a notice to vacate under the condition that his landlord required his residence for personal use, and was not required to vacate due to his residence being sold, demolished or condemned, and therefore finds that the ministry was reasonable in its determination to deny the appellant a moving supplement; 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 did not establish that he was applying for a moving supplement, and that as a

result of the move, his shelter costs would be significantly reduced, and therefore does not meet this criteria. The appellant confirmed at the hearing that he understood that the rental cost of both residence "B" and "C" were higher rental costs than his point "A" residence. The appellant argued at the hearing that given the current rental market, with a zero percent vacancy rate, that his higher rental costs were reasonable. The panel finds that evidence establishes that the appellant did not move to significantly reduce his monthly rental cost, as his initial point "A" residence totaled \$375.00 per month and his point "C" residence is substantially higher, totaling \$600.00 per month. The panel therefore confirms the ministry's determination that the appellant did not meet this legislative reason for moving; 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 provides that the appellant did not establish that he was applying to avoid an imminent threat to his physical safety, and therefore does not meet the criteria. The appellant confirmed at the hearing that the reason for his move was based on the landlord requiring his residence for personal use and therefore, the panel finds that the ministry was reasonable to determine that the appellant did not meet this legislative reason for moving.

Accordingly, the panel finds that the decision of the ministry to deem the appellant not eligible for a moving supplement due to not meeting all of the eligibility requirements of Section 57(2)(a-e) 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.