

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated October 16, 2017. In that decision the ministry decided that the appellant was not eligible for a moving supplement because the ministry found that the appellant did not meet any of the legislated criteria in section 55(2) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5.
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 55.

PART E – SUMMARY OF FACTS

The information before the ministry at reconsideration included the following:

- That the appellant was a sole recipient with Persons with Disabilities (PWD) designation;
- That the appellant applied to rent a suite for \$850 per month for the period October 1, 2017 to March 31, 2018 (the “New Accommodation”);
- That the appellant’s portion of the rent for the New Accommodation would be \$450;
- That the appellant currently rented accommodation for \$700 per month (the “Prior Accommodation”);
- That the Prior Accommodation and the New Accommodation were in different municipalities and those municipalities were not adjacent;
- That two years prior, the appellant had been given three months’ notice to vacate the Prior Accommodation but that the landlord had allowed her to remain;
- That the Prior Accommodation was not currently for sale;
- That the appellant considered that fires in the area of the Prior Accommodation were extremely hard on her breathing and her depression;
- Two quotes for the cost of the appellant moving from the Prior Accommodation to the New Accommodation;
- The appellant has no family in the same municipality as the New Accommodation, but she would be closer to family than if she remained at the Prior Accommodation.

Information provided on appeal:

Notice of Appeal

In the Notice of Appeal dated December 5, 2017, the appellant wrote that “I understand that I am not in the same municipality, but the Dr. knew that I needed to be close to my son in [another municipality] to help me with my depression.”

The Panel determined that this was admissible under Section 22(4)(b) of the *Employment and Assistance Act* because it was in support of the statement in the Request for Reconsideration dated September 29, 2017, where the appellant wrote “The fires have been extremely hard on my breathing and depression.”

The appellant also described the circumstances under which she brought the appeal, the circumstances in her life since she moved to the New Accommodation and why she chose to move to the New Accommodation instead of a different municipality.

The Panel determined that these statements consist of argument and considered it on that basis.

Ministry Submissions

The ministry made no submissions on the hearing and relied on “the reconsideration summary provided in the Record of Ministry Decision”.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry's determination that the appellant was denied a moving supplement for her move from her Prior Accommodation to her New Accommodation, because it did not fall within any of the circumstances set out in section 55(2) of the EAPWDR is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Applicable Legislation

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.

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;

...

(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.

The Ministry's Position

The ministry's position was that:

- because the move from the Prior Accommodation to the New Accommodation was not because the appellant had "confirmed employment that would significantly promote financial independence" section 55(2)(a) did not apply;
- because the move from the Prior Accommodation to the New Accommodation was not "to another province or country" section 55(2)(b) did not apply;
- because the move from the Prior Accommodation to the New Accommodation was not "**within** a municipality or unincorporated area or to an **adjacent** municipality or unincorporated area". (emphasis added) sections 55(2)(c) and 55(2)(d) did not apply; and
- because the appellant was not moving "to another area of British Columbia to avoid imminent threat to your physical safety" section 55(2)(e) did not apply.

In further support of its position that section 55(2)(e) did not apply, the Ministry stated "'Imminent' denotes a sense of urgency. Since it has been two years since you provided any information from your doctor or psychiatrist, and continued to remain in [the Prior Accommodation], the ministry is not satisfied that your physical safety is urgently threatened if you did not move to the [New Accommodation]."

The Appellant's Position

The Appellant's Position was that:

- "moving back to the coast was necessary for my health to improve. None of this has changed, except I am on even more medication because I have not 'improved my living circumstances' so section 55(2)(b) applied to her circumstance;
- Notice was given to her "a year ago" by her landlord and "he is going to clean after I move and finish reno's then list it" so section 55(2)(c) applied to her circumstance;
- The rent for the New Accommodation "is \$850.00. I am only paying \$450.00. This reduces my rent by \$250.00 a month" so section 55(2)(d) applied to her circumstance.

The Panels' Decision

Section 55(2)(a) states:

(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 Panel finds that the ministry reasonably concluded that the appellant provided no evidence she met this criterion and it was reasonable for the ministry to determine this section did not apply.

Section 55(2)(b) states:

(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 Panel finds that, although the appellant's living circumstances may be improved at the New Accommodation, the New Accommodation is not in another province or country from the Prior Accommodation. Consequently, the Panel finds that the ministry's decision that section 55(2)(b) did not apply to the appellant is reasonable.

Section 55(2)(c) states:

(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;

The Panel finds that, although the appellant may have been provided with a notice to vacate, that the New Accommodation is not in another province or country from the Prior Accommodation. Consequently, the Panel finds that the ministry's decision that section 55(2)(c) did not apply to the appellant is reasonable.

Section 55(2)(d) states:

(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 Panel finds that, although the appellant's rent at the New Accommodation is \$250 per month less than at the Prior Accommodation, the New Accommodation is not within a municipality or unincorporated areas or to an adjacent municipality or unincorporated area from the Prior Accommodation. Consequently, the Panel finds that the ministry's decision that section 55(2)(d) did not apply to the appellant is reasonable.

Section 55(2)(e) states:

(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 Panel finds that an "imminent threat to physical safety" requires evidence that the appellant's physical safety would be negatively affected in the near-term. In the Request for Reconsideration, the appellant stated that moving to the New Accommodation "was necessary for my health to improve"; however, as noted by the ministry, the medical information respecting the need to move for health reasons is two years old and the appellant remained at the Prior Accommodation during that period. Therefore, the panel concludes that the ministry reasonably concluded that the information does not establish that remaining at the Prior Accommodation posed an "imminent threat to the physical safety" of the appellant. Consequently, the Panel finds that the ministry's decision that section 55(2)(e) did not apply to the appellant is reasonable.

Conclusion

The panel finds that the ministry's reconsideration decision, determining that the appellant was denied a moving supplement for her move from her Prior Accommodation to her New Accommodation because the criteria of section 55(2) of the EAPWDR were not met, was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's reconsideration decision. The appellant is not successful on appeal.