

PART C – DECISION UNDER APPEAL

The decision under appeal is reconsideration decision, dated January 4, 2018 (the “Reconsideration Decision”), of the Ministry of Social Development and Poverty Reduction (the “Ministry”), which denied the Appellant a moving supplement in respect of a move in or about October, 2017 from his home to a nearby community because, the Ministry determined, the reasons for the Appellant’s move did not fall under any of the categories set out 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
EAPWDR, section 55

PART E – SUMMARY OF FACTS

The evidence before the Ministry at the time of the Reconsideration Decision consisted of the following:

- a shelter information form, dated October 3, 2017 (the “New Shelter Information”), indicating that the residence to which the Appellant was moving to in or about early October had a rent of \$1,250.00 per month, of the Appellant’s share would be \$625.00 per month, and that he would be sharing this accommodation with one other adult and two children;
- a shelter information form, dated July 21, 2017 (the “Old Shelter Information”), indicating that the residence from which the Appellant was moving had a monthly rent of \$1,550.00, of which the Appellant’s share was \$600.00 per month, and that he had shared that accommodation with three other adults and two children;
- an undated note from a person with whom the Appellant lived and with whom the Appellant moved to his new residential address (the “Roommate”);
- a residential tenancy agreement, dated August 16, 2017 (the “Tenancy Agreement”), signed by the Appellant and the Roommate as tenants;
- a quote, dated September 9, 2017, from a mover to move the Appellant to his new residence for \$945.00 plus GST in the amount of \$50.55 (the “\$945 Quote”);
- a undated quote from a different mover to move the Appellant’s “one bedroom suite” for \$700.00 on October 5, 2017 (the “\$700 Quote”);
- an undated notice to vacate (the “Notice”) from the Appellant’s Roommate and another individual, indicating that the Appellant was required to vacate his residence due to the intention of the Roommate and her spouse, who were the actual leaseholders at the residence, to separate and live elsewhere;
- an undated letter (the “Letter”) from the mover who moved the Appellant, indicating that, as of November 29, 2017, the Appellant had yet to make payment for his move in the amount of \$700.00; and
- the Appellant’s Request for Reconsideration, dated December 18, 2017 (the “RFR”), in which the Appellant stated that:
 - moving expenses needed to be paid to the mover;
 - “there was a clerical error in the system in regards to” his “supporting documents” regarding what the Appellant stated was his October 5, 2017 move;
 - the Ministry had advised him that he had never submitted any documents and that, although there had been two Service Request Numbers, his documents were visible as at December 18, 2017;

In his Notice of Appeal, dated January 16, 2018, the Appellant stated that

- upon submitting documents pertaining to his moving expenses, he never heard back from the Ministry at all as to approval and was forced to move; and
- he had been informed by the Ministry that his moving documents had not been attached to his Service Request and that had been the reason for the denial of a moving supplement.

The Appellant also included a two page typed letter with his Notice of Appeal in which he elaborated on the above information and stated that:

- after acquiring a service request number, he submitted the moving request with moving quotes and a notice to vacate and that he had frequently followed up with the Ministry after that but was continuously told that his request was being processed before ultimately being advised that his documents had been entered under a different service request number and that it was too late to

fix the problem;

- he had been subletting a portion of a house from the Roommate and her spouse who had told him that they were separating and moving out of the house as soon as possible;
- he had contacted multiple moving companies who couldn't help him because they were not willing to wait the long periods of time that it might take to get paid by the Ministry;
- he was only able to get a decent quote for moving after asking for help publicly;
- another person living in a different portion of the home had been approved for a moving supplement, having used the same moving company and having submitted documents "around the same time as I did";
- he had been unable to open the Reconsideration Decision on his Self Serve and still didn't know why the moving supplement was denied as he was unable to open the Reconsideration Decision and was only provided with a copy of the Notice of Appeal when he went into his local Ministry Office; and
- he is a single male without family or extra income, has had two hip replacements, was diagnosed with COPD this year, and that the reason for the denial of his moving supplement was a clerical error by the Ministry.

The Appellant did not attend at the hearing and, having confirmed that the Appellant had been notified of the hearing date and time, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

At the hearing, the Ministry went through the timeline of the Appellant's application for a moving supplement and stated that:

- on September 25, 2017, the Ministry received a request for a moving Service Request number from the Appellant, who was advised that he needed to provide a letter confirming the reason given for his move and two flat rate moving quotes;
- on October 2, 2017, the Appellant submitted:
 - the Notice;
 - the \$700 Quote
 - the \$945 Quote
 - the Tenancy Agreement
- on October 4, 2017 the Ministry received the New Shelter Information;
- on October 17, 2017, the Ministry attempted to contact the Appellant to determine his actual share of the rent, to verify the date of the Appellant's move, and to confirm if the \$700 Quote and the \$945 Quote were still valid in the event that the Appellant had not yet moved;
- on October 31, 2017, the Appellant contacted the Ministry to advise that the amount of his shelter allowance should have been \$625.00 after having received only \$312.50 in shelter allowance; and
- on November 30, 2017, the Appellant submitted the Letter.

At the hearing, the Ministry also confirmed that it was satisfied that the Appellant had no resources available to him to cover the cost of his move, that the Appellant had sought the Ministry's approval prior to incurring the cost of his move, and that the Appellant had used the least expensive and appropriate mode for his move.

Admissibility of New Information

The panel admits the evidence contained in the Notice of Appeal as written testimony in support of information that was before the Ministry at the time of the Reconsideration Decision, pursuant to section

22(4) of the *Employment and Assistance Act*, with the exception of the portions of the Appellant's accompanying letter which dealt with:

- another person living in a different portion of the Appellant's house having been approved for a moving supplement; and
- the Appellant having been unable to open the Reconsideration Decision on his Self Serve.

The panel admits the evidence of the Ministry at the hearing as oral evidence in support of information that was before the Ministry at the time of the Reconsideration Decision, pursuant to section 22(4) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a moving supplement in respect of a move in or about October, 2017 from his home to a nearby community because, the Ministry determined, the reasons for the Appellant's move did not fall under any of the categories set out in section 55(2) of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR").

Legislative Framework

Section 5 of the EAPWDA authorizes the Ministry to issue disability assistance or supplements to a family unit that is eligible:

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.

Section 55 of the EAPWDR sets out the specific criteria that must be met in order to establish eligibility for supplements in respect of moving, transportation and living costs:

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.

Panel Decision

The Appellant's RFR and Notice of Appeal address what he alleges were clerical errors by the Ministry in the handling of documentation that he submitted that related to his move. The Appellant also sets out that he had no extra income and had to move because he was a sub-lessor of a portion of a residence that the lessees were vacating, he also had to vacate the residence when the lessees vacated.

The Ministry's position, however, as set out in the Reconsideration and as described at the hearing, is that the Appellant had met the requirements for a moving supplement that are set out in subsections (3) and (4) of section 55 of the EAPWDR. The Ministry accepted that the Appellant had no resources available to pay for the move, that he had sought Ministry approval, and that the moving quotes he provides were the least expensive mode for him to move. The Ministry's position is that the Appellant was denied a moving supplement because the reasons for the Appellant's move did not fit into any of the categories set out in subsections (a) through (e) of section 55(2) of the EAPWDR.

As the Appellant did not move because he had secured employment that would significantly promote his financial independence, subsection (a) of section 55(2) of the EAPWDR does not apply to the Appellant's circumstances.

The Appellant did not move to another province or country and, in the result, subsection (b) of section 55(2) of the EAPWDR also does not apply to the Appellant's circumstances either.

While it appears that the Appellant, who was sub-letting from the actual tenants at his previous residence, may have been required to vacate his previous residence when the actual tenants ended their tenancy, the strict wording of subsection (c) of section 55(2) of the EAPWDR does not apply to the Appellant's circumstances because his previous residence had not been sold, demolished, or condemned, notwithstanding that the Appellant moved to an adjacent municipality, which is also a requirement of subsection (c) of section 55(2) of the EAPWDR. Instead, the Appellant moved because the persons from whom he leased had separated and vacated the residence in which they lived with the Appellant.

Likewise, despite the Appellant having moved to an adjacent municipality, the reason for the Appellant's move does not fit within the requirements of subsection (d) of section 55(2) of the EAPWDR because the Appellant's shelter costs were not significantly reduced by the move. In fact, the Appellant's shelter costs increased from \$600.00 to \$625.00 per month.

Finally, the Appellant was not required to move to another area of British Columbia and the issue of any possible imminent threat to his safety at his previous residence was not raised in his application for a moving supplement, in the RFR, or in the Notice of Appeal. In the result, subsection (e) of section 55(2) of the EAPWDR also does not apply to the Appellant's circumstances.

On a review of all of the evidence and relevant legislation, the panel finds that the Reconsideration Decision was a reasonable application of section 55 of the EAPWDR in the Appellant's circumstances and was reasonably supported by the evidence. In the result, the panel confirms the Ministry's decision and the Appellant is not successful in the appeal.