

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision of April 10, 2018 in which the ministry found that the appellant was ineligible for a moving supplement because:

1. his move did not meet any of the criteria for a moving supplement under Section 57 (2) (a) – (e) of the Employment and Assistance Regulation (EAR);
2. he did not satisfy the ministry that he had no resources available to cover the cost as required by subsection 57 (3) (a); and
3. he did not satisfy the ministry that his costs were the least expensive mode of moving as required by subsection 57 (4) (a).

### **PART D – RELEVANT LEGISLATION**

EAR Section 57

## **PART E – SUMMARY OF FACTS**

The appellant is a single recipient of income assistance (“IA”) with no dependents.

Information before the ministry at reconsideration included the following:

- on March 12, 2018 the appellant advised the ministry that he was planning to move to another part of the province in order to find less expensive rental accommodations. The ministry denied his request for a moving supplement because although his rent would be significantly less he was not moving within his municipality (Municipality A) or to an adjacent municipality;
- appellant’s shelter information form dated March 21, 2018 indicating that he had rented a room in Municipality B at a cost of \$600 per month including utilities commencing March 21, 2018;
- appellant’s request for reconsideration submitted to the ministry on March 26, 2018 in which the appellant noted the following:
  - he had been required to move from his accommodation in Municipality A because there were bedbugs and no alternate housing was available within a reasonable price range in Municipality A or in adjacent municipalities;
  - moving cost estimates handwritten by the appellant:
    - Moving Company #1: \$6,095.00;
    - Moving Company #2: \$3,201.45;
    - move by friend (“M”):
      - truck fuel \$700
      - U-Haul 300
      - meals 80
      - lodging 150
      - supplies 200
      - car fuel 150
      - TOTAL: \$1,580

### **Evidence Received after Reconsideration**

#### Notice of Appeal

In his Notice of Appeal dated April 17, 2018 the appellant noted that he owes money for moving and was in imminent danger when he moved.

#### Oral Evidence at Hearing

During the hearing the appellant provided additional information related to his position that he was required to move from Municipality A to avoid an imminent threat to his physical safety:

1. in the year preceding his move he was very ill with bacterial pneumonia and needed to move because of heat problems within his rental unit;
2. the repeated bedbug infestation caused him physical pain from the bites, psychological damage and sleep deprivation. Chemical treatments to remove the bedbugs were hazardous to his lung health;
3. when he filed Residential Tenancy dispute resolution proceedings on March 5, 2018 his landlord became hostile, threatening and “fairly physical and violent”.

The appellant also stated that he had relied on financial contributions from family and friends to be able to pay the \$850 per month rent on his accommodation in Municipality A.

#### Admissibility of New Evidence

The panel admitted the appellant’s evidence regarding his inability to afford the monthly rent in his Municipality A accommodation under EAA Section 22 (4) as evidence in support of the information before the ministry at reconsideration because it related to his March 12, 2018 advisement to the ministry that he was unable to find affordable accommodation in Municipality A or any adjacent municipality.

The panel did not admit the appellant's oral evidence related to imminent threat under Section 22 (4) for the following reasons:

1. Lengthy illness with bacterial pneumonia – this constituted new evidence that was not considered by the ministry at reconsideration.
2. Repeated bedbug infestations and chemical treatments – the appellant did not address the issue of bedbugs in his original request and spoke only of a “bedbug condition” in his request for reconsideration. He did not mention the effect on his physical health and, as noted in #1, did not refer to the effect of the chemical treatments on his pneumonia-weakened lungs. The ministry had no opportunity to consider this new medical information at reconsideration.
3. Violent physically threatening behaviour by landlord – the landlord did not begin to threaten the appellant until after the appellant commenced a residential tenancy dispute proceeding. The appellant did not include this information in his request for reconsideration submitted March 26, 2018. This is new information that is not in support of the information before the ministry at reconsideration.

The ministry relied on the reconsideration decision, which included a Google map indicating that the distance by road between Municipality A and Municipality B is 1,167 km.

## PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the reconsideration decision which determined that the appellant was ineligible for a moving supplement because:

1. his move did not meet any of the criteria for a moving supplement under Section 57 (2)(a) – (e) of the Employment and Assistance Regulation (EAR);
2. he did not satisfy the ministry that he had no resources available to cover the cost as required by subsection 57 (3) (a); and
3. he did not satisfy the ministry that his costs were the least expensive mode of moving as required by subsection 57 (4) (a).

Relevant legislation:

### Supplements for moving, transportation and living costs

**57** (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

(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.

The appellant argues that he needed to leave his accommodation in Municipality A because there was a bedbug condition and he was unable to find new accommodation in Municipality A or in any adjacent municipality at a reasonable rent. The appellant also argues that he was unable to pay the rent for his Municipality A accommodation without the assistance of friends and family and he owes money for his moving costs.

The ministry argues that the appellant failed to meet any of the eligibility criteria for a moving supplement, did not demonstrate that he had no financial resources to cover the cost of moving and did not satisfy the ministry that the costs incurred were the least expensive mode of moving.

## **Panel Decision**

### **1. Reason for Appellant's Move**

EAR Section 57 (2) sets out five criteria (a) – (e) under which moving costs may be provided:

- (a) moving anywhere in Canada if permanent employment has been confirmed;
- (b) moving to another province or country to improve living circumstances;
- (c) moving within a municipality or to an adjacent municipality because her residence was being sold, demolished, or condemned;
- (d) moving within a municipality or to an adjacent municipality if shelter costs would be significantly reduced;
- (e) moving to another area in British Columbia to avoid an imminent threat to the person's physical safety.

The ministry did not consider (a), (b), (c), or (d) because the appellant did not move outside the province and did not move within or adjacent to Municipality A. The appellant agrees that subsections (a) – (d) are not applicable to his circumstances. Section 57 (2) (e) allows the ministry to provide a moving supplement to assist with moving costs to another area in British Columbia to avoid an imminent threat to the physical safety of the recipient. The only evidence tendered by the appellant prior to reconsideration was the phrase "bedbug condition", which does not describe an imminent threat to physical safety.

The panel therefore finds that the ministry reasonably determined that the appellant's move did not meet any of the geographic move location criteria set out in EAR Section 57 (2) (a) – (e).

### **2. No Resources to Cover Moving Costs**

The evidence demonstrates that the appellant is a recipient of IA who was unable to afford his rent in Municipality A or in any adjacent municipalities. In his Notice of Appeal the appellant noted that he owes money for moving. In the absence of information to the contrary it is reasonable to assume that the appellant lacked the necessary financial resources to cover the cost of a move to a municipality located 1,167 km away.

The panel finds that the ministry's determination that the appellant had not demonstrated that he had no resources available to cover his moving costs was not reasonably supported by the evidence.

### **3. Least Expensive Moving Costs**

On March 12, 2018 the appellant advised the ministry that he had a friend who could move him to Municipality B for less than \$600. On March 26, 2018 in his request for reconsideration the appellant provided handwritten information to indicate that he had received estimates of \$6,095 from Mover #1, \$3,201.45 from Mover #2 and \$1,580 from a friend. He did not submit actual estimates on corporate stationery or an estimate signed by the friend. As a result the ministry was unable to confirm the cost of the least expensive mode of moving.

The panel finds that the ministry reasonably concluded that there was insufficient information submitted by the appellant to determine the least expensive mode of moving as required by subsection 57 (4) (a).

## **Conclusion**

Although the panel finds that the ministry was not reasonable in determining that the "no resources available" criterion set out in EAR subsection 57 (3) (a) was not met, the panel finds that the ministry reasonably determined that the appellant was not eligible for a moving supplement because the eligibility criteria set out in Subsections 57 (2), (3) (a) and (4) (a) were not met.

In conclusion, the panel finds that the ministry's decision the appellant was ineligible for a moving supplement under Section 57 of the EAR because he did not meet the eligibility criteria under EAPWDR Section 55 (2), (3) (b) and (4) (a) is reasonably supported by the evidence, and confirms the decision. The appellant is not successful in his appeal.