

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated June 20, 2018 in which the Ministry denied the appellant a moving supplement because the request did not meet any of the necessary criteria as specified under Section 55 (2) (a) – (e) and (4) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 55 (2) (a) – (e)

PART E – SUMMARY OF FACTS

Information before the ministry at reconsideration included the following:

- The appellant has been a sole recipient with Persons with Disabilities (PWD) designation since March 26, 2010 receiving \$1133.42 per month for disability assistance. This amount includes \$758.42 support allowance and \$375 for shelter allowance. From this amount \$20 is deducted as repayment to the minister.
- Prior to May 1, 2018 – the appellant paid \$425 plus utilities per month rent at her old residence
- April 16, 2018 – the appellant provided a Shelter Information form stating that she was planning to move to a new location within the same city and would be required to pay \$685 per month for rent plus utilities at this new location.
- April 16, 2018 - the appellant provided two moving estimates: 1) Movers (a) \$1375 including GST and 2) Movers (b) \$1295 including GST.
- April 19, 2018 – The appellant advised the ministry that she was being evicted from her current residence because her son was staying with her and has caused damage to her residence. The ministry denied her request because she did not meet one of the requirements as specified in Section 55 (2) (a) – (e) of the Regulation.
- April 23, 2018 – the appellant provided the ministry with a letter stating that due to significant medical concerns she would not be able to move on her own. The appellant also provided an updated quote from (b) movers for \$1295, which now included a stop at another location to pick up more belongings.
- April 27, 2018 - the appellant submitted her Request for Reconsideration. She advised that she had problems with her back, legs, neck and had a brain injury. She also provided a note from her doctor confirming that she was unable to move herself for medical reasons.
- May 15, 2018 – the appellant filed a Notice of Appeal with EAAT stating that she did not agree with the ministry

Notice of Appeal dated April 27, 2018, the appellant states: “I have problems with legs, neck, back. Cannot walk certain length of time. See attached letters. Also Brain injury. Brain does not function 100%. Body is Beat up from recent car accident & abuse.”

Evidence Received after Reconsideration

- June 4, 2018 – the appellant provided the EAAT office with a two-page, hand written note stating she had to move and listing expenses totaling \$700 that she felt represented the cost of moving herself. No receipts were provided.

At the hearing

Appellant:

Due to sudden illness the appellant was unable to attend but was represented by her advocate who attended in person. The appellant did call in to the hearing and give verbal permission for the advocate to speak on her behalf and to allow her witness (P) to give his testimony over the phone.

Witness P stated that he was a roommate to the appellant and confirmed that the appellant's portion of the rent in the old residence was \$ 425 plus utilities, but the rent in the new location was \$ 645 plus utilities. The new residence was still only a 1 bedroom apartment but was of a better quality. Witness P also stated that he was aware of the damage the appellant's son had made, but did not consider the son to be a threat to his or the appellant's personal safety.

Ministry:

The ministry representative provided a thorough explanation of the reasons the appellant was denied the moving supplement due to not meeting the Section 55 (2) (a) – (e) criteria of the regulation.

The ministry confirmed that the appellant did request prior approval for the moving costs but was denied.

The ministry was satisfied that under Section 55 (3) EAPWDR the appellant did not have the finances to pay for the move herself. However the appellant did not have prior approval from the ministry.

Admissibility of New Evidence

The panel did not admit the appellant's evidence regarding the hand-written note with costs of moving herself under EAA Section 22 (4) as evidence in support of the information before the ministry at reconsideration because this information was not before the ministry at the time of reconsideration. At the time of reconsideration, no mention was made of the appellant moving herself.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated June 20, 2018 in which the Ministry denied the appellant a moving supplement because the request did not meet any of the necessary criteria as specified under Section 55 (2) (a) – (e) and (4) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Relevant legislation:

Supplements for moving, transportation and living costs

55 (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.

(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.

Panel Decision:

Relevant to this case is Section 55 of the EAPWDR that states there are specific conditions that must be met to qualify for a supplement for moving. The panel must consider the facts of this case as it applies to the legislation.

The evidence is that on April 16, 2018 the appellant provided a Shelter Information form. On April 16, 2018 the appellant requested a moving supplement to move her belongings from old residence to a new residence within the same city. The appellant's written submission stated that the move was due to being evicted by the landlord. However at reconsideration and at the hearing, no additional evidence was provided by the appellant to substantiate this claim.

Pursuant to section 55(2) EAPWDR the minister may provide a supplement to or for a family unit that is eligible for disability 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 panel finds that the ministry was reasonable in its conclusion that the appellant was not eligible for a moving supplement under section 55(2) (a) EAPWDR that the appellant did not move to begin 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.

The panel finds that the ministry was reasonable in its conclusion that the appellant was not eligible for a moving supplement under section 55(2) (b) EAPWDR that the appellant did not move to another province or country.

- 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 the ministry was reasonable in its conclusion that the appellant was not eligible for a moving supplement under section 55(2) (c) EAPWDR because her previous residence was not being sold, demolished or condemned and the move was not to an adjacent municipality or unincorporated area.

- 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.

Although the appellant moved within a municipality the evidence indicates that her shelter costs were not significantly reduced. Rent was \$475 plus utilities at the old residence and a \$625 plus utilities at the new residence. The panel finds that the ministry was reasonable in its conclusion under section 55(2)(d) EAPWDR that appellant's shelter costs have not been significantly reduced because of her 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.

Prior to reconsideration the appellant did not indicate that she feared for her personal safety because her adult son was living in the rental unit and caused significant damage. At the hearing Witness P also stated that he was not concerned for his personal safety at the old residence. The panel finds that the ministry was reasonable in its conclusion under section 55(2)(e) EAPWDR that it is not satisfied that the appellant was required to move from her previous location to avoid an imminent threat to her physical safety.

Pursuant to section 55(3) EAPWDR a family unit is eligible for a supplement 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.

The panel notes that the evidence is that the appellant informed the ministry of her move on April 16, 2018 and requested a moving supplement on April 16, 2018.

The panel finds that the ministry did conclude that under section 55(3) EAPWDR that the appellant does not have the resources to move her belongings, but did not have the minister's approval prior to incurring the costs of moving her belongings.

Pursuant to section 55(4) EAPWDR a supplement may be provided under this section only to assist with the cost of the least expensive appropriate mode of moving. The panel finds that the ministry was reasonable in its conclusion under section 55(4) EAPWDR that the appellant did not provide enough information to satisfy the ministry that she had arranged the least expensive appropriate mode of moving and did not have prior approval before incurring the costs.

Conclusion

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 EAPWDR Section 55 (2) (a) – (e) and (4) were not met.

The appellant is not successful in her appeal.

ART G – ORDER**THE PANEL DECISION IS: (Check one)** **UNANIMOUS** **BY MAJORITY****THE PANEL** **CONFIRMS THE MINISTRY DECISION** **RESCINDS THE MINISTRY DECISION**If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No**LEGISLATIVE AUTHORITY FOR THE DECISION:***Employment and Assistance Act*Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b) **PART H – SIGNATURES**

PRINT NAME

Marilyn Mellis

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/Jun/25

PRINT NAME

Joan Bubbs

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/Jun/25

PRINT NAME

Ray Kirzinger

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/Jun/25