

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated May 4, 2018, which held that the appellant was not eligible for a moving supplement because the Ministry was not satisfied that her move was for one of the reasons permitted under section 55 (2) (a) to (e) of the *Employment and Assistance for Persons with Disabilities Regulation*.

More specifically:

- (a) the appellant indicated that she had an upcoming interview with an employer, but did not provide evidence that she was required to move to begin employment;
- (b) while the appellant may have improved her living circumstances, she was not moving to another country or province;
- (c) the appellant's residence had not been sold, demolished or condemned;
- (d) the appellant's shelter costs were not reduced as a result of the move; and
- (e) the Ministry was not satisfied the appellant was required to move to avoid an imminent threat to her physical safety.

PART D – RELEVANT LEGISLATION

***Employment and Assistance for Persons with Disabilities Act* (EAPWDA):
Disability assistance and supplements**

Section 5

***Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR):
Supplements for moving, transportation and living costs**

55

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

For its reconsideration decision, the Ministry had the following evidence from its records that:

- The appellant is a Person with Disabilities (PWD)
- The appellant did not have the resources to cover the cost of the move
- The appellant requested the ministry's approval prior to the move
- The appellant did provide an estimate from a moving company for \$ 1100

The appellant provided the following evidence:

She was moving to the new city:

- to obtain employment
- to lower her living costs
- to be closer to her family for support and transportation, she does not have a vehicle
- her new employment is within walking distance of her new residence
- an estimate from a moving company for \$ 1100
- that she had to borrow the funds from her senior parents to pay for the move and it would require repayment to them, causing her a hardship.

Evidence Received after Reconsideration

Appellant: A letter from her new employer confirming part time employment up to 40 hours per week.

Admissibility of New Evidence

The panel has admitted the letter from the appellant's new employer under Section 22(4) under the Employment & Assistance Act because it in support of the information respecting potential employment that the appellant provided at reconsideration.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Ministry's decision that the appellant was not eligible for a moving supplement for one of the reasons permitted under section 55 (2) (a) to (e) of the EAPWDR was reasonably supported by the evidence or was a reasonable interpretation of the legislation in the circumstances of the appellant.

55 (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;

The Ministry was satisfied that the appellant requested approval prior to incurring moving costs, and that she had no other resources available for the move. The decision at reconsideration turned on whether the appellant satisfied one of the eligibility criteria in section 55 (2) (a) to (e) of the EAPWDR.

Section 55(2)(b) allows for moving costs "required to move to another province or country, if the family unit is required to move to improve its living circumstances." The evidence before the Ministry was that the appellant was moving to another city within the same province—not to another province or country. Therefore, the panel finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(b) to be reasonably supported by the evidence.

Section 55(2)(c) allows for moving costs required to move with a community if the "family unit's rental residential accommodation is being sold or demolished and a notice to vacate has been given or has been condemned." There was no evidence before the Ministry that the appellant's residence was being sold, demolished or condemned. Therefore, the panel finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(c) to be reasonably supported by the evidence.

Section 55(2)(d) allows for moving costs to move within a community "if the family unit's shelter costs would be significantly reduced as a result of the move." The evidence before the Ministry was that the appellant's shelter costs would decrease by \$60 per month because of the move. However, the utility costs were not included in rent at the new location and the appellant did not move within her community. Therefore, the panel finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(d) to be reasonably supported by the evidence.

Section 55(2)(e) allows for moving costs "to move to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit." There was no evidence of this provided by the appellant. The panel therefore finds the Ministry's determination that the appellant did not meet the criterion in section 55(2)(e) to be reasonably supported by the evidence.

Section 55(2)(a) allows for "moving costs required to move anywhere in Canada" if the recipient 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 appellant presented evidence that she did obtain employment at the new location which consisted of a letter from her new employer stating that she will receive up to 40 hours per week.

Although the employer states the position is part time, the potential to receive up to 40 hours per week employment” would significantly promote the financial independence of the family unit”.

The Ministry states in its reconsideration decision appendix A – that “with the confirmation of your employment moving costs would be considered.” The Ministry also states the old residence was 414 kms apart from the new residence. A distance such as this would require moving by the appellant to obtain the employment.

Therefore, the panel finds the Ministry’s determination that the appellant did not meet the criterion in section 55(2)(a) to not be reasonably supported by the evidence.

Least Expensive Moving Costs:

Under Section 55 (4) (a) EAPWDR -

(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 Regulation does not state how the ministry, or the appellant is to determine the least expensive appropriate mode of transportation is. The panel determined that the ministry stating that only supplying one estimate does not meet the requirements of the regulation is not a reasonable application of the regulation.

The appellant argues that she obtained prior approval for the moving costs and did not have the resources to pay for these. She was moving to obtain employment and to reduce her living costs. In addition, she would be closer to her family for support and transportation. The panel found the appellant did provide proof of employment that would require her to move and thus incur moving costs.

The panel accepted the submission made by the appellant dated June 21, 2018.

Conclusion

In conclusion, the panel finds that the ministry’s decision the appellant was ineligible for a moving supplement under EAPWDR Section 55 (2), (a) was not reasonably supported by the evidence and rescinds the decision. The appellant is successful in her appeal.

PART 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)

2018/07/24

PRINT NAME

On behalf of: David Kendrick

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/24

PRINT NAME

Laurie Kent

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/24