

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated Nov 6, 2018 which held that the appellant was not eligible to receive a moving supplement because he did not meet any of the legislated reasons for his move as set out in s.55(2) EAPWDR and because he did not demonstrate that he had no other resources available to him pursuant to s.55(3)(a) EAPWDR.

PART D – RELEVANT LEGISLATION

s. 55 Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”)
s.22(4) Employment and Assistance Act (“EAA”)

PART E – SUMMARY OF FACTS

The evidence before the Ministry at reconsideration was:

- The appellant is a sole recipient of disability assistance.
- On September 5, 2018 the appellant provided a tenancy agreement indicating he had secured new accommodation effective September 1, 2018. The tenancy agreement reviewed by the Ministry (but not a part of the appeal record) reflected that the new rent payable was \$865 per month.
- On September 24, 2018 the appellant provided a moving receipt dated September 1, 2018 indicating he paid \$500 to a moving company to move a 1-bedroom apartment from one community to another. The appellant requested to be reimbursed his moving costs.

The appellant's request for reconsideration states:

- He was living in accommodation under an affordable housing program since 2014 but he was isolated in the location that he was living in and decided to move to another community.
- He applied to move to a new community 1.5 years ago through the affordable housing program.
- On August 18, 2018 he was offered another affordable housing placement to a location in a more suitable community. When he was given the offer, he was away at the time and rushed back on August 21, 2018 to pack his things for a September 1, 2018 moving date.
- The appellant had a friend that had a Uhaul and was available to assist the appellant move. The friend backed out at the last minute and the appellant obtained two moving quotes: one for \$700 and one for \$500.
- A friend lent him \$500 because of the last-minute nature of the move and because another friend who offered to help backed out on him.
- He was admitted to the hospital three times because of his mental health and felt that this move was his only opportunity to change his life for the better.
- The process has caused him a lot of stress because he is unable to work due to his disability and is unable to supplement the costs he has incurred.

The documentary evidence available included a receipt dated September 1, 2018 marked as paid from the moving company for \$500.

The appellant's notice of appeal states: "please consider that I live on PWD in a very tight budget and I have no other income to pay off my debt."

At the hearing, the appellant was not present for the first 15 minutes. The panel confirmed that the notice of hearing was delivered to the appellant on November 30, 2018 and Pursuant to s.86(b) EAR the panel proceeded with the hearing in the absence of the appellant. When the appellant joined the call, the panel re-commenced the hearing from the beginning.

At the hearing the appellant stated that he was suffering, and he was sick for a long time. His psychiatrist, his case manager, and his doctor encouraged him to move to another community. He applied for over one year ago for this move, but when he finally got the call from the affordable housing society, the move had to happen within a short timeline. He asked for help and phoned movers. He had to borrow the money to move because he didn't have any money. He applied to the Ministry to see if he could get the \$500 that he borrowed to move reimbursed and the Ministry said he was supposed to ask the Ministry ahead of time for the money. He states that he is asking for humanitarian help.

New evidence by the appellant at the hearing:

At the hearing the appellant also stated that he had an incident where a neighbor hit his boot on his door and that he was generally very afraid of his neighbors. He stated he was also very afraid of his manager and his manager told him that he was not welcome there. He indicated that he made a police report.

The appellant also stated that his rent was not actually \$865 per month but that it was actually \$334 per month because it was subsidized, and his rental amount includes heat and hot water and cable. The appellant therefore stated that his new rent was in fact less than his rent at his old location.

The panel considers the information about the appellant's fear of his manager and his neighbors to be new evidence as it was not before the Ministry at the time of reconsideration. The evidence was also available to the appellant at the time of reconsideration and even at that time that he initially asked for the moving supplement (he was aware of the fear of his neighbors and his rent subsidy at that time). The appellant however, never provided this information to the Ministry until the hearing. The panel therefore finds that this information is inadmissible pursuant to s.22(4) EAA. It was not before the Ministry at reconsideration and it is not in support of information that was before the Ministry at the time of reconsideration.

At the hearing the Ministry relied on their reconsideration decision. The Ministry also argued that the new evidence should not be accepted because it was not before them at the time of reconsideration.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Ministry's decision to deny the appellant a moving supplement by reason that the appellant did not meet any of the legislated reasons for his move set out in s.55(2) EAPWDR and that he did not demonstrate that he had no other resources available pursuant to s.55(3)(a) EAPWDR is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The legislation provides:

Supplements for moving, transportation and living costs – EAPWDR

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.

[am. B.C. Reg. 275/2004, s. 2.]

Panels of the tribunal to conduct appeals – EAA

22 (1) If a person commences an appeal in accordance with section 21 (1), the chair must appoint a panel consisting of up to 3 members of the tribunal to hear and determine the appeal.

(2) If a panel consists of more than one member, the chair must designate a chair of the panel from among the members of the panel, and if a panel consists of one member, that member is the chair of the panel.

(3) A panel must conduct a hearing into the decision being appealed within the prescribed period either

(a) orally, or

(b) with the consent of the parties, in writing.

(4) In a hearing referred to in subsection (3), a panel may admit as evidence only

(a) the information and records that were before the minister when the decision being appealed was made, and

(b) oral or written testimony in support of the information and records referred to in paragraph (a).

(5) Evidence referred to in subsection (4) may be admitted whether or not it would be admissible as evidence in a court of law.

(6) The panel chair is responsible for deciding any question of practice or procedure that arises during a hearing and is not provided for in the regulations or in the practices and procedures of the chair under section 20 (2) (a) [powers and duties of the chair].

The panel finds:

The Ministry may provide a moving supplement to the appellant only if the supplement is for one of the seven enumerated grounds set out in s.55(2) and only if the appellant also complies with all the requirements set out in s.55 (3) and (4) of EAPWDR.

The appellant moved so that he could improve his mental health and not be so isolated from his friends and community. He states that he needed to move for his own mental health and safety. The appellant states that he suffers from being isolated from his friends and community. He did not provide details about why he needed to move for his safety. With respect to his mental health, he stated that his doctor, psychiatrist, and mental health worker all agreed that he should move. The appellant did not dispute the fact that he was not moving for any of the other legislated reasons set out in s.55(2)(a)-(d), (f), or (g).

s.55(2)(e) EAPWDR states that the Ministry may assist with "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 noted that the appellant did stay in the community he was living in for 4 years. The appellant's request to transfer communities also took 1.5 years before it was granted by the affordable housing organization he was working with. The Ministry found that staying in the community for 1.5 years was indicative that there was no imminence to the

need for the appellant to move. The Ministry therefore determined that the need to avoid threat to the appellant's physical safety was not imminent. The panel finds that the appellant did not provide sufficient evidence about the imminence of his move or that there was in fact "imminent threat" to the appellant's "physical safety". The panel finds that this is a high standard to meet, and that it was reasonable for the Ministry to require more than just improving the appellant's mental health and feelings of isolation. The panel finds that the Ministry was reasonable in their determination that the appellant did not meet this standard.

The Ministry found that, pursuant to s.55(3)(b) EAPWDR, the appellant could not obtain the Ministry's approval prior to incurring moving costs due to his mental health and since his friend that was going to assist him cancelled on short notice. The Ministry accepted the appellant's evidence on this point and relied on his statements that his friend cancelled at the last minute. The Ministry also determined that pursuant to s.55(4)(a) the appellant used the least expensive mode to move his personal items given that he used the cheaper of the two quotes. The panel finds both the determination pursuant to s.55(3)(b) and s.55(4)(a) to be reasonable determinations by the Ministry.

The Ministry found that although the appellant indicated he was required to pay back his friend \$500 for the moving costs, there was no information to support this evidence, and the Ministry found that pursuant to s.55(3)(a) EAPWDR they could not determine that the appellant was unable to obtain the resources to cover his moving costs. The Ministry found that there was no documentation to support the fact that the appellant owed his friend \$500. The panel finds that the appellant did provide a receipt for moving expenses of \$500 showing that they were "paid". The appellant also stated that he owed his friend the \$500 to pay for the moving costs. The panel finds, that it was not reasonable for the Ministry to require additional supporting information with respect to moving costs, when they relied on the appellant's testimony in its entirety for their analysis is s.55(3)(b) EAPWDR. Further, the Ministry gave no reasons for why they accepted his testimony about his inability to find a friend to assist with the move, but would not accept his testimony that he owed his friend \$500 for the move. The panel finds that it was not reasonable for the Ministry to determine that the appellant had the resources to cover the moving costs pursuant to s.55(3)(b) EAPWDR.

For these reasons the panel finds that because the appellant did not move for one of the legislated reasons set out in s.55(3)(a), it was reasonable for the Ministry to deny the appellant the moving supplement. The panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME MEGHAN WALLACE (by telephone)	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 19-Dec-18

PRINT NAME SARAH BIJL	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 19-Dec-18

PRINT NAME ROBERT KELLY	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 17-Dec-18