

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the “ministry”) dated October 24, 2016, in which the ministry denied the appellant's request for a moving supplement under section 55 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), as he did not meet any of the required criteria set out in s. 55 in order to be eligible to receive a moving supplement.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA)- Section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 55.

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- Notice of Appeal dated November 14, 2016
- Request for Reconsideration dated October 12, 2016 where the appellant described his account of interactions with the ministry regarding his request for a moving supplement.
- Photo copy of text message from appellant to landlord confirming he must vacate by September 15, 2016.
- Three requests for moving quotes dated September 1, 3, and 6, of 2016.
- An invoice for moving expenses for a total of \$220.00.
- Mutual Agreement to End a Tenancy dated May 2016.
- A letter from the appellant's former landlord stating he has possession of the rental property for personal use.

The appellant provided a late submission which was accepted by the panel chair as the submission did not contain new evidence but did provide the appellant's position for his appeal.

In the appellant's Notice of Appeal, he wrote

- He believed the ministry has incorrectly interpreted his appeal for moving funds and failed to make the decision under section 55.

In a written statement, the appellant stated:

- Details on how he was treated by ministry workers in making his application.
- That "realistic facts" were disregarded and,
- A number of responses to the ministry's reconsideration decision.

In the reconsideration decision, the ministry wrote:

- The appellant is the sole receipt of Employment and Assistance for Persons with Disabilities benefits.
- On September 6, 2016 the appellant provided a "Mutual Agreement to end Tenancy" dated May 17, 2016 indicating he would be moving September 15, 2016.
- On September 13, 2016 the appellant provided a shelter information form.
- On September 14, 2016 the appellant advised the ministry he was moving as the landlord needed the place back to open a residential business. The appellant shared a screen shot of a text from the landlord indicating he was using the basement for his own use.
- September 15, 2016 the ministry denied the appellant's request for a moving supplement because his rent was increasing and he had not provided a notice to end tenancy. The ministry determined that a mutual agreement to end tenancy was not a reason the ministry can pay for a local move.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision dated October 24, 2016, that denied the appellant's request for a supplement to cover the costs of moving was reasonably supported by the evidence or was a reasonable application of the Employment and Assistance Act and Regulations in the circumstances of the Appellant. The Ministry determined that the appellant's request did not meet all of the legislative criteria set out in section 57 of the Employment and Assistance Regulation, and in particular found that he did not meet requirements of section 57(3)(a), and he did not meet any of the requirements of section 57(2).

Employment and Assistance for Persons with Disabilities Act

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.

Employment and Assistance for Persons with Disabilities Regulation

Supplements for moving, transportation and living costs

55 (1) In this section:

(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.

Ministry's Position

The Ministry relied on the reconsideration summary in response to the appellant's appeal and the appellant's late written submission. The ministry's position is no evidence was given by the appellant that would make him eligible for a moving supplement based on the conditions in EAPWDR, section 57(2) and 57(3).

Appellant's Position

In his late written submission the Appellant argued:

- That "realistic facts" were disregarded which included;
 - He has no family or friends who can help with moving or funds;
 - he is not able to move items due to his disability;
 - he did not have any savings;
 - he submitted all relevant documents.
- In response to the ministry's reconsideration decision the appellant stated:
 - Section 55(2)(c) the appellant's screen shot sent by his landlord was not accepted by the ministry as a "sufficient document" even though the appellant was told to get a text message from his landlord.
 - October 12, 2016 the appellant submitted a request for reconsideration which included a "sufficient" document from the landlord. He felt it was unfair the ministry would include other reasons for denying his request; specifically that he had not indicated if he had family or friends to assist with the move.
 - Section 55(2)(e) the appellant felt waiting for his foot surgery and being in a basement unit qualified his request for a moving supplement.
 - Section 55(3)(a) the appellant stated he has no resources available for moving.
 - Section 55(3)(b) the appellant felt he was eligible for funds as the ministry failed to provide service on time.

Panel findings

In order to qualify for a supplement for moving, transportation and living costs the Appellant must satisfy one of the conditions in EAPWDR, section 57(2) as well as meet the conditions of section 57(3).

EAPWDR Section 57(2) Generally

There are seven criteria under EAPWDR Section 57(2)(a-g); The Appellant must qualify under at least one of them in order to be eligible for a moving supplement.

EAPWDR Section 57(2)(a)

Under this subsection, a moving supplement may be granted to move anywhere in Canada if the Appellant has arranged confirmed employment that will significantly promote financial independence and the Appellant is required to move to begin that employment.

At reconsideration there was no evidence that the Appellant was required to move to secure employment. The panel finds the ministry was reasonable in determining the appellant did not qualify under EAPWDR section 57(2)(a).

EAPWDR Section 57(2)(b)

Under this subsection the Appellant must show that he is moving to another province or country in order to improve living circumstances.

At reconsideration there was no evidence to support the appellant's living circumstances would be significantly improved or that he was moving to another province or country. The panel finds the ministry was reasonable in determining the appellant did not qualify under EAPWDR section 57(2)(b).

EAPWDR Section 57(2)(c)

Under this subsection, the Appellant would qualify for a moving supplement if his rented residential accommodation is being sold or demolished and he has received a Notice to Vacate, or it has been condemned.

At reconsideration there was no evidence that the appellant was given a Notice to Vacate. Although the Appellant provided evidence that he had signed a mutual agreement to end tenancy, the panel finds the ministry was reasonable in determining the appellant did not qualify under EAPWDR section 57(2)(c).

EAPWDR Section 57(2)(d)

In order to qualify under this subsection the Appellant must show that as a result of the move his shelter costs would be significantly reduced.

As the evidence showed the shelter costs would increase, the panel finds the ministry was reasonable in determining the appellant did not qualify under EAPWDR section 57(2)(d).

EAPWDR Section 57(2)(e)

In order to qualify under this subsection the Appellant must show that she must move to another area of British Columbia to avoid an imminent threat to his physical safety.

At reconsideration there was no evidence that the Appellant was in danger of any imminent threat to his physical safety. The panel finds the ministry was reasonable in determining the appellant did not qualify under EAPWDR section 57(2)(e).

EAPWDR Section 57(2)(f) & (g)

These two subsections would provide assistance in moving to the Appellant if he required transportation and living costs to attend a child protection hearing, or a hearing in connection with

support for himself or a dependant.

At reconsideration there was no evidence that the Appellant was required to attend a hearing of any sort. The panel finds the ministry was reasonable in determining the appellant did not qualify under EAPWDR section 57(2)(f)(g).

EAPWDR Section 57(3)

The Appellant must qualify under this subsection by showing there were no resources available to cover the costs for moving and must receive the Minister's approval before incurring those costs.

At reconsideration the Appellant did not show evidence he did not have the resources available to cover the cost of the move. The panel finds the ministry was reasonable in determining the appellant did not qualify under EAPWDR section 57(3).

Panel Decision

To be eligible for a moving supplement the appellant must meet one criterion in Section 55(2) and all of Section 55(3) of the EAPWDR. The appellant did not meet one criterion in Section 55(2) and did not meet the criteria set out per Section 55 (3)(a).

Conclusion

The panel finds that the ministry's reconsideration decision dated March 22, 2016 which determined that the appellant was not eligible for a moving supplement in accordance with Section 55(2) and (3) was reasonably supported by the evidence, and therefore confirms the ministry's decision.

The Appellant was not successful in his appeal.