

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated February 27, 2019, which denied a portion of the appellant's request for a supplement for moving costs as the ministry found that the appellant's request for the cost of disposal of items did not meet the requirements under Section 55 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

PART E – SUMMARY OF FACTS

Although the appellant had appointed an advocate, the advocate only works on specified days and, therefore, could not attend the hearing as scheduled. The appellant stated that she would like to go ahead with the hearing and represent herself. She indicated that she would not request an adjournment because she is getting sicker and she just wants the appeal to be done.

The evidence before the ministry on Reconsideration included the following documents:

- 1) Copies of email correspondence dated January 30, 2019 with the moving company, which includes information that the appellant is moving the next day. There is a request to include in the quote the fact that the appellant needs to stop at the dump to drop off two couches and a queen size bed and the appellant is “aware that this will be part of the hourly charge. The list is as follows. However, it also includes that couches and beds that will be dropped at the dump.” The reply from the moving company includes that, given the details provided, they expect to require 3 men and a one-ton truck for 7 hours at a rate of \$130/hour plus \$50 in dump fees for a total of \$960 and “there is a possibility that things go more quickly, or take a little longer, but in our experience we should be in this range.”
- 2) Moving Estimate dated January 31, 2019 which includes “move and disposal” for \$682.50;
- 3) Invoice dated February 9, 2019 from a moving and storage company, which included a “full truck” 2 bedroom apartment and “extra time and disposal of \$110” and the amount of \$682.50 had been received;
- 4) Receipt dated February 11, 2019 from a taxi company in the amount of \$59.05 for “moving”; and,
- 5) Request for Reconsideration dated February 19, 2019.

In her Request for Reconsideration, the appellant wrote:

- She is requesting a reconsideration of the outstanding balance from the movers, which is \$110.
- She is also requesting \$59.05 for the taxi she used to move belongings because the moving truck was full and not able to fit all her belongings that needed to be moved.
- The moving estimate did not take into full consideration the disposal fee and the time charged to dispose. She received an estimate for a 2-bedroom but she has belongings that are for a 3-bedroom to be moved to a new 2-bedroom apartment.
- The total outstanding balance of the taxi and the moving fees is \$169.05 and she does not have funds to pay this amount.
- She is on disability because of her medical condition and she will not be able to pay the outstanding balance of \$169.05.
- This has impacted her health and well being as she is stressed.

Additional information

In her Notice of Appeal March 4, 2019, the appellant expressed her disagreement with the ministry’s reconsideration decision and wrote that:

- She was told by the ministry that there is a difference between an estimate that the moving company gave her and the actual quote.
- The ministry said to save her receipts and if the cost of the move is higher than the

estimate from the moving company, the ministry would cover the balance.

At the hearing, the appellant provided the following additional documents:

- 1) Undated brochure from Pain BC with information about the impact of chronic pain;
- 2) Letter dated April 23, 2019 from the Ministry of Citizens' Services enclosing the ministry's response to the appellant's Freedom of Information (FOI) request, specifically the history report with notes made by the ministry for the appellant's file, covering the period February 2, 2019 through to March 27, 2019. These notes included entries as follows:
 - February 5, 2019- "advised clt chq can be picked up from that office this date after 2:00 pm and if cost is higher due to unanticipated moving costs, clt can submit a receipt to the office for further review and possible payment";
 - February 12, 2019- "cle (sic) has moved, stated paid extra to the movers and used cab to move some stuff, receipt attached. Please see notes on related SR. The worker advised clt to submit receipt for extra exoense (sic). Clt stated she needs to pay the movers as soon as possible. Please issue cheque at 315 if eligible";
 - February 13, 2019- "Email from Constituency Assistant [name] about the client's request for additional funds for moving supplement. ADS explained the Constituency Assistant over the phone about the policy and that the supplement has to be pre-approved and the client was issued the amount she was pre-approved for. ADS also explained that the client was given the wrong information that additional funding could be approved."
 - February 27, 2019- "Recon finds client is eligible for a moving supplement of \$59.05 for taxi fees to move family unit and belongings from one location to another; however, recon finds client is not eligible for \$110 for fees associated with disposal of personal property and the worker's time associated with disposal."
- 3) Letter dated May 9, 2019 in which a family physician wrote that:
 - The physician is concerned that the ministry is holding \$110 of the appellant's money for moving expenses.
 - The appellant reports having less than \$20 in her bank account, which imposes great stress for her.
 - The appellant is suffering from significant medical issues including HIV infection, chronic pain, chronic vomiting, for which she is considered permanently disabled.
 - The appellant is also experiencing increased anxiety and depression with suicidal ideation.

At the hearing, the appellant stated:

- The ministry told her that since she had provided an "estimate" and not a "quote," she could provide the ministry with the receipts for any amounts above the amount of the estimate.

- She is sick and has no friends, no one from whom to borrow money. She needs to have money for emergencies. She currently has only \$100 in her bank account. She is in Canada alone and, if she has a problem, the ministry is her only “family.”
- She lives with her son and some weeks she does not eat for days to make sure that he gets 3 meals a day. Her son also needs money for school.
- When she knew she would be moving, she started asking for quotes to move her belongings. Many of the companies did not want to get involved when they knew that the ministry would be paying. She could not get 3 quotes.
- February 10, 2019 was the last day she could move without being charged another month’s rent, so she was running out of time.
- She explained her situation to the ministry and was told that the estimate was sufficient and that she could let the ministry know if it cost more.
- On the Invoice [dated February 9, 2019] from the moving company, the reference to “extra time” did not relate to the time for them to dispose of some of her items but, rather, to the extra time they took moving her belongings from her old place to the new. They thought it would take 8 hours, but they were at her place longer, moving items all day long.
- She had couches and a bed that would not fit into her new, smaller accommodation. She did not know, and was not advised by the ministry, that the ministry might fund the cost of storage fees.
- She is very sick and the lack of funds is causing her stress. She has a mental illness and when she worries about something, she can become very depressed and suicidal.

The Ministry relied on the reconsideration decision as summarized at the hearing. At the hearing, the ministry clarified:

- The ministry interpreted the reference to “extra time and disposal” on the Invoice from the moving company to relate to the time to dispose of some of the appellant’s belongings. If the invoice had been more particularized, setting out the time spent on disposal and the time spent on moving, the ministry would have considered reimbursement for the time spent specifically for moving. However, in this case, the wording on the invoice is unclear.
- There is a distinction between disposal of items generally and disposal of items within the context of a move.
- There is no other legislative provision that applies to moving costs. However, if a person needs to store their items for a period of time during a move, the ministry can consider short-term storage fees as part of the moving costs. The ministry will only cover the costs for a set period of time, for example 1 or 2 months.
- The definition of “moving cost” in the legislation means “the cost of moving a family unit and its personal effects from one place to another” and the ministry interprets the ‘other

place' to be the new accommodation, although it can admittedly also include a storage unit. The storage unit scenario would typically involve a person who has not found new accommodation yet and their personal belongings must be stored until new accommodation is found.

- It is possible that the ministry has also covered the cost of storage fees when all of the person's personal belongings do not fit in the new accommodation, but this would be more likely in one of the emergency grounds for a move in Section 55(2) of the EAPWDR, which is not the appellant's situation.
- The appellant was approved for a moving supplement based on Section 55(2)(d) of the EAPWDR since her shelter costs would be significantly reduced as a result of the move. If the ministry were to consider storage fees together with the rent charged at the new location, this may change her eligibility based on this ground.
- The ministry acknowledged that if the 'other place' to which the personal belongings are moved could be a storage unit, then the 'other place' could also conceivably be the dump.

Admissibility of Additional Information

The ministry did not object to the admissibility of the additional documents provided by the appellant at the hearing. The panel considered that while these documents were not before the ministry at reconsideration, they tended to corroborate the information that was before the ministry concerning the interactions between the ministry and the appellant with respect to the moving supplement and the nature of the appellant's medical conditions. Therefore, the panel admitted the documents as being in support of the information and records that was before the ministry on reconsideration, pursuant to section 22(4)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on this appeal is whether the decision by the ministry, which denied a portion of the appellant's request for a supplement for moving costs as the ministry found that the appellant's request for the cost of disposal of items did not meet the requirements under Section 55 of the EAPWDR, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The legislative criteria to be considered eligible for the supplement for moving costs are set out in Section 55 of the EAPWDR as follows:

Supplements for moving, transportation and living costs

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.

Panel decision

Moving supplement

In the reconsideration, the ministry concluded that the appellant was eligible for a moving supplement under Section 55(2)(d) of the EAPWDR as her shelter costs would be significantly reduced as a result of the move. The ministry wrote that the appellant's shelter costs were decreased from \$2,700 per month to \$570 per month, or a savings of \$2,130 per month. The ministry also concluded that the appellant met the requirements of Section 55(3) of the EAPWDR as she had no resources to cover the moving costs and she received the ministry's approval before incurring these costs. The ministry wrote that when the appellant was given approval by the ministry, she was also advised that if her costs were to go over the approved amount of \$682.50 that she could submit additional receipts for reimbursement.

The costs of the appellant's move went over the approved amount of \$682.50 by a total of \$169.02 and, in the reconsideration decision, the ministry made a distinction between the \$59.05 cost for a taxi fare to deliver those belongings that did not fit in the moving truck to the appellant's new accommodation, and the \$110 cost for disposal of some of the appellant's items and the extra time that the disposal took to complete.

"Moving cost"

Section 55(1) of the EAPWDR sets out a definition of the costs that are provided for, including "moving cost," to mean: "the cost of moving a family unit and its personal effects from one place to another." In the reconsideration decision, the ministry wrote that the \$59.05 cost to move the appellant's belongings from one location to another via taxi fit within the definition of "moving cost." The ministry wrote that the appellant had no way of knowing that the size of the moving truck would not be sufficient to move all of her belongings from her old accommodation to the new residence.

In the reconsideration decision, the ministry determined that the \$110 cost of disposing of two couches and a queen size bed at the dump and the cost of the workers' extra time for this disposal does not fit within the definition of "moving cost."

In her Notice of Appeal, the appellant wrote that: she was told by the ministry that there is a difference between an “estimate” that the moving company gave her and an actual quote. The appellant wrote that the ministry told her to save the receipts and, if the cost of the move was higher than the estimate from the moving company, the ministry would cover the balance. The ministry file notes for February 5, 2019 indicate that the ministry advised the appellant that if the cost was higher than the approved amount of \$682.50 due to unanticipated moving costs, the appellant could submit a receipt “for further review and possible payment,” and the ministry acknowledged in the reconsideration decision that the appellant had received approval for the additional amounts if they fell within the definition of a “moving cost.”

At the hearing, the appellant stated that when she realized she would be moving, she started asking for quotes to move her belongings but she discovered that many of the companies she approached did not want to get involved when they knew that the ministry would be paying. The appellant stated that she was having difficulty getting 3 quotes and February 10, 2019 was the last day she could move without being charged another month’s rent. The appellant stated that she explained to the ministry that she was running out of time, and was told that the estimate was sufficient and that she could let the ministry know if her move ended up costing more.

At the hearing, the appellant argued that the reference to “extra time” on the moving company’s Invoice did not relate to the time for them to dispose of some of her items but, rather, to the extra time they took moving her belongings from her old place to the new accommodation. At the hearing, the ministry stated that the ministry interpreted the reference to “extra time and disposal” on the Invoice from the moving company to relate to the time to dispose of some of the appellant’s belongings and not to “extra time” for the move. At the hearing, the ministry stated that the wording on the invoice is unclear. The wording on the Invoice dated February 9, 2019 included “extra time and disposal of \$110” and the panel finds that the use of the word “and” as opposed to the use of the word “for” suggests that there was also extra time for activities other than “for disposal.” While there is no breakdown in the Invoice of the amount of the \$110 cost that applied to disposal, the panel finds that it is unreasonable for the ministry to conclude that the entire amount of \$110 related to disposing of the appellant’s belongings.

Further, in considering the definition of “moving cost” in Section 55(1) of the EAPWDR, the cost of moving a family unit and its personal effects from one place “to another” does not specify that the other “place” must necessarily be a new residence. At the hearing, the ministry acknowledged that if the other ‘place’ to which the personal belongings are moved could be a storage unit under the ministry’s policy for approval of the cost for storage fees, then the other ‘place’ could also conceivably be the dump. The moving estimate dated January 31, 2019 includes a reference to “move and disposal” for \$682.50, and this was the initial amount, including “disposal,” that was approved by the ministry. As the wording used in the legislation is not specific, the panel finds that the ministry was not reasonable in determining that the costs of moving the appellant’s belongings from her old accommodation to the dump were not included in the definition of “moving cost” under Section 55(1) of the EAPWDR.

Conclusion

Therefore, the panel finds that the ministry's decision, which denied the appellant's request for a supplement in the amount of \$110 as a "moving cost" under Section 55 of the EAPWD R, is an unreasonable application of the applicable enactment in the circumstances of the appellant and the panel rescinds the ministry's decision. The panel decision is referred back to the ministry for a decision as to amount. Therefore, the appellant's appeal is successful.

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

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019-05-10

PRINT NAME

Anil Aggarwal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-05-10

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-05-10