

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") reconsideration decision dated March 19, 2019 which held that the appellant was not eligible for a moving supplement because he did not meet the legislated reasons for his move as set out in section 55(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and because he did not meet the legislative criteria of section 55(3) of the EAPWDR.

PART D – RELEVANT LEGISLATION

EAPWDR section 55

PART E – SUMMARY OF FACTS

The evidence before the ministry at reconsideration was:

- The appellant is a sole recipient of disability assistance
- The appellant provided a One Month Notice to End Tenancy dated January 31, 2019 (the “Eviction Notice”) indicating that the appellant or a person permitted on the property by the appellant significantly interfered with or unreasonably disturbed another occupant or the landlord
- The appellant’s Request for Reconsideration dated March 12, 2019 in which the appellant states that his mother kicked him out and all his stuff is sitting outside. The appellant states that he found new accommodation for March 1, 2019 but still requires a moving supplement in order to hire a truck to move his stuff into a storage unit until the end of June.

In his Notice of Appeal dated March 27, 2019, the appellant states that all of his belongings are sitting outside in the weather and that the facility where he is staying does not have any room for his items so he needs to put them in a storage unit. The appellant states that he is participating in a program that runs from April to June 2019 and will be moving into his own place by August 31, 2019.

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 (EAA)*.

The appellant did not provide a written submission. By email dated April 23, 2019, the ministry advised that the ministry’s submission will be the reconsideration summary.

Admissibility of New Information

The panel has admitted the information in the appellant’s Notice of Appeal as it is in support of information and records that were before the ministry at the time of reconsideration, in accordance with EAA section 22(4). In particular, the new information provides further information regarding the appellant’s current accommodation and reason that he requires storage for his belongings.

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 he did not meet any of the legislated reasons for his move set out in s.55(2) of the EAPWDR and that he did not meet the legislative criteria of s.55(3) of the EAPWDR is reasonably supported by the evidence or a reasonable application of the applicable legislation in the appellant's circumstances.

Relevant Legislation

Section 55 EAPWDR

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.

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

Panel Decision

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

The panel finds that the ministry reasonably determined that the appellant did not meet any of the legislated criteria in section 55(2) EAPWDR so he was not eligible for a moving supplement. In particular, as the appellant had not submitted any information to indicate that he had arranged confirmed employment that would significantly promote his financial independence, the ministry reasonably determined that the appellant did not meet the legislative requirements of section 55(2)(a) of the EAPWDR.

As the appellant moved within the same province, and did not move to another province or country to improve his living circumstances, the ministry reasonably determined that section 55(2)(b) of the EAPWDR did not apply.

As the appellant had not submitted any information to suggest that he was moving as a result of

his current accommodation being sold, demolished or condemned, the ministry reasonably determined that section 55(2)(c) of the EAPWDR did not apply.

As the appellant did not move in order to reduce his shelter costs, which remained the same at \$800 per month, the panel finds that the ministry reasonably determined that section 55(2)(d) of the EAPWDR did not apply.

As the appellant did not provide any information to suggest that he had to move because of an imminent threat to his physical safety, the panel finds that the ministry reasonably determined that section 55(2)(e) of the EAPWDR did not apply. In particular, the panel notes that the Eviction Notice indicates that the appellant had to move because he had significantly interfered with or unreasonably disturbed another occupant or the landlord.

The reconsideration decision states that the appellant moved out leaving his belongings outside of his previous residence and that the appellant had not moved his belongings because he did not have the resources to do so. The reconsideration decision states that while the appellant has moved to a new residence, he has yet to incur the cost of moving his belongings; therefore, the minister finds that he should not be denied a moving supplement under section 55(3) of the EAPWDR. This part of the reconsideration decision appears to indicate that the ministry found that the appellant met the criteria of section 55(3)(a) of the EAPWDR in that he did not have the resources available to cover the costs of moving his belongings to a storage unit. However, as the panel finds that the ministry reasonably determined that the appellant did not meet any of the legislated reasons for his move as required by section 55(2) of the EAPWDR, the panel finds that the ministry reasonably determined that the appellant was not eligible for a moving supplement.

The panel notes that the second last line of the reconsideration decision indicates that as the appellant's request "...does not meet any of the criteria in Section 55(3), the minister is unable to approve your request". The panel finds that the reference to section 55(3) in this sentence must be a typographical error and that the reconsideration decision must have been referring to section 55(2) of the EAPWDR as the earlier part of the reconsideration decision clearly indicates that the ministry found that the appellant did not meet any of the criteria in section 55(2) of the EAPWDR. Regardless of the typographical error, the panel finds, as noted above, that the ministry reasonably determined that the appellant did not meet any of the criteria in section 55(2) of the EAPWDR and in order to be eligible for a moving supplement the appellant has to meet at least one of the criteria in section 55(2) of the EAPWDR and all of the criteria in section 55(3) of the EAPWDR.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for a moving supplement as he did not meet the legislative criteria set out in EAPWDR section 55(2) and 55(3), was reasonably supported by the evidence and a reasonable application of the applicable legislation. The panel confirms the ministry's decision. The appellant is not successful on appeal.

APPEAL NUMBER

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

Helene Walford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/05/17

PRINT NAME

Wayne Reeves

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/05/17

PRINT NAME

John Pickford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/05/19