

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated April 3, 2019 which held that the appellant was not eligible for a moving supplement under sections 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) and regulation 55 of the Employment and Assistance for Persons with Disabilities Regulations (EAPWDR).

Specifically, the ministry found that as she was not moving to a confirmed job, to avoid imminent threat to her physical safety, out of the province to improve her living circumstance, or within her area because her unit was condemned, sold or demolished and she had received a Notice to Vacate, or because her shelter costs would be significantly reduced as a result of the move she did not meet the criteria in EAPWDR section 55.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5
Employment and Assistance for Persons with Disabilities Regulations (EAPWDR), regulation 55

PART E – SUMMARY OF FACTS

The appellant did not attend the hearing. After confirming that the appellant was properly notified of the hearing as per section 85 of the Employment Assistance Regulation (EAR), the panel proceeded with the hearing in her absence as per section 86 of the EAR:

85 (1)A hearing must be held within 15 business days after the appeal form is delivered under section 84, unless the chair of the tribunal and the parties consent to a later date.

(2) The chair of the tribunal must notify the parties of the date, time and place of a hearing described in subsection

(1) at least 2 business days before the hearing is to commence.

86 The practices and procedures of a panel include the following:

(b) the panel may hear an appeal in the absence of a party if the party was notified of the hearing.

The following key dates and information was noted:

- March 19, 2019: the ministry advised the appellant that her request for a moving supplement was denied
- March 28, 2019: the ministry received the Request for Reconsideration
- April 3, 2019: the ministry completed it's review and denied the Request for Reconsideration

Background:

- The appellant is a single person in receipt of disability assistance, receiving a monthly shelter allowance of \$375.00 which was issued to her in January, February and March. Her monthly shelter costs at her prior home were \$650.00 and her current rent is \$700.00
- On February 19, 2019, she received an eviction notice for unpaid rent of \$7,330.00 effective March 1, 2019. She stated that the only new accommodation she could secure was in a motel and she would therefore require a storage unit for her belongings
- She submitted 2 quotes from moving companies and two storage companies. She reports that she does not have the funds or the help to move her belongings
- She reported that she had an agreement with her previous landlord of seven years that she only had to pay the \$420/month pad rental on her home during the winter, however the unit was sold and she was now being asked to pay the full rent for those past months. She cannot afford the new rental rate for this unit which is now \$800/month, hence she is staying at the motel
- Her request for a moving supplement was denied by the ministry because she was not moving to a confirmed job, to avoid imminent threat to her physical safety, out of the province to improve her living circumstance, or within her area because her unit was condemned, sold or demolished and she had received a Notice to Vacate, or because her shelter costs would be significantly reduced as a result of the move

At the hearing the ministry relied upon the reconsideration decision. They explained that the decision on this file was made based upon the triggering event of the appellant's eviction notice, the legislation and the appellant's submitted information. It was noted that the ministry was unable to confirm the specifics regarding the \$7,330.00 debt the appellant's previous landlord wishes to collect, nor were they able to confirm that the new owner of the unit she was renting is now charging \$800.00/month for rent. The ministry was also unable to quantify the definition of the term "significant reduction" of shelter costs per section 55:2(d) of the EAPWDR; noting that there is no set formula for this reduction.

Applicable Legislation:

EAPWDA: 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.

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 [*categories that must assign 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 (1) (f) or (g), the least expensive appropriate living costs.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the Ministry's reconsideration decision dated April 3, 2019 which held that the appellant was not eligible for a moving supplement under sections 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) and regulation 55 of the Employment and Assistance for Persons with Disabilities Regulations (EAPWDR).

Specifically, the ministry found that as she was not moving to a confirmed job, to avoid imminent threat to her physical safety, out of the province to improve her living circumstance, or within her area because her unit was condemned, sold or demolished and she had received a Notice to Vacate, or because her shelter costs would be significantly reduced as a result of the move she did not meet the criteria in EAPWDR section 55 (2). Although the ministry was satisfied that she did not have the resources available to cover her moving costs per section 55(3) they were not satisfied that the two quotes she provided from moving companies were the least expensive appropriate mode of moving section 55(4).

Findings of the Panel:

All information submitted to the appeal panel was carefully reviewed and the appellant's submissions were considered.

The panel finds that the ministry's reconsideration decision of April 3, 2019 which held that the appellant's application for a moving supplement was a reasonable application of the Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 5, as well as the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 55, considering the information submitted at the time of reconsideration and the circumstances of the appellant.

The panel confirms the ministry's decision. The appellant is unsuccessful in her 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

Jan Lingford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/05/09

PRINT NAME

Jean Lorenz

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/05/09

PRINT NAME

Marilyn Mellis

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/05/09