

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 of July 3, 2019 in which the ministry determined that the appellant was not eligible for a crisis supplement or a moving supplement to pay for his storage fees because the appellant only met part of the eligibility criteria; pursuant to section 55 and 57 of the Employment and Assistance for Persons with Disabilities Regulation.

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PART D – RELEVANT LEGISLATION

EAPWDR – Employment and Assistance for Persons with Disabilities Regulation, Section 55

PART E – SUMMARY OF FACTS

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

- 1) **May 1, 2019** – The Appellant requested a crisis supplement to pay a deposit on a storage unit. The appellant was provided one month's worth of storage fees (\$85.00); but was denied for six months of coverage (\$510.00).
- 2) **May 9, 2019** – The appellant requested a reconsideration of the decision to deny the \$510.00 for a deposit to cover six months of storage fees.
- 3) **June 6, 2019** – the appellant requested an extension to July 5, 2019.
- 4) The appellant's friend had been paying the storage fees and had died suddenly. The appellant did not have the resources to continue to pay for the storage of his personal belongings. The appellant is staying at a shelter and has no way to store the personal belongings.

Additional Information

The ministry relied on the reconsideration decision of July 3, 2019. The ministry also provided an August 14, 2019 dated letter acknowledging the fact that the legislation applied in the case of the appellant had changed on July 1, 2019. The ministry noted that *had* the changed legislation been applied to the appellant's case, the decision would have been in favour of the appellant, and he would have received the supplement.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of July 3, 2019 in which the ministry determined that the appellant was not eligible for a crisis supplement or a moving supplement to pay for his storage fees because the appellant only met part of the eligibility criteria; pursuant to section 55 and 57 of the Employment and Assistance for Persons with Disabilities Regulation.

The **current** and relevant section of the legislation is 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

(a) moving a family unit and the family unit's personal effects from one place to another, and

(b) storing the family unit's personal effects while the family unit is moving if the minister is satisfied that storing the personal effects is necessary to preserve the personal effects;

"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 anywhere in British Columbia because the family unit is being compelled to vacate the family unit's rented residential accommodation for any reason, including the following:

(i) the accommodation is being sold;

(ii) the accommodation is being demolished;

(iii) the accommodation has been condemned;

- (d) moving costs required to move anywhere in British Columbia if the family unit's shelter costs would be significantly reduced as a result of the move;
- (e) moving costs required to move anywhere 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) subject to subsection (3.1), a recipient in the family unit receives the minister's approval before incurring those costs.**

(3.1) A supplement may be provided even if the family unit did not receive the minister's approval before incurring the costs if the minister is satisfied that exceptional circumstances exist.

(4) A supplement may be provided under this section only to assist with

- (a) in the case of a supplement under subsection (2) (a) to (e), the least expensive appropriate moving costs, and**
- (b) in the case of a supplement under subsection (2) (f) or (g), the least expensive appropriate transportation costs and the least expensive appropriate living costs.**

Panel Decision

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for a crisis or moving supplement because he did not meet all of the criteria set out under section 55 and 57 of the Employment and Assistance for Persons with Disabilities Regulation.

The appellant's position, as outlined as his reason for appeal, is that due to circumstances beyond his control, he has a need for the storage deposit (\$510.00) that he does not have the resources to pay for.

The ministry outlines in the reconsideration decision that the appellant met part of section 55 and 57 of the EAPWDR, however not all criteria was met and therefore the appellant was denied the supplement.

The ministry in this case, provides a letter, dated August 14, 2019 which highlights the change in legislation as of July 1, 2019. In this letter, the ministry notes the appellant would have been granted the supplement if the amended legislation had been applied; specifically, section 55 of the EAPWDR.

The panel considered that given the change in legislation had occurred on July 1, 2019, and the reconsideration decision was made on July 3, 2019, the reconsideration officer had the opportunity to take the changed legislation into consideration at the time the decision was made. The panel considers that by not taking the changed legislation into consideration, and in knowing the outcome would have addressed the appellant's need, the reconsideration officer lacked an application of reasonableness in making his/her decision to deny the appellant the supplement.

The panel relies on the ministry's August 14, 2019 dated letter which outlines the July 1, 2019 amended legislation, as the current and relevant legislation in this appeal.

Accordingly, the panel finds that the decision of the ministry to determine the Appellant was ineligible for a crisis and moving supplement an unreasonable application of the applicable enactment in the circumstances of the Appellant. Therefore, the panel rescinds the ministry's decision pursuant to section 24(1)(b) and section 24(2)(b) of the *Employment and Assistance Act*. The appellant therefore is successful in his appeal.

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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

Jennifer Armstrong

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/08/28

PRINT NAME

Nancy South

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/08/28

PRINT NAME

Perry Mazzone

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/08/28