

APPEAL NUMBER

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) Reconsideration Decision dated July 30, 2019 which found the appellant ineligible for a supplement for moving costs. The ministry found the appellant did not meet any of the criteria for approval of a supplement for moving costs set out in section 55 of the Employment and Assistance for Persons with Disabilities Regulation.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 55

**PART E – SUMMARY OF FACTS**

The information before the minister at reconsideration included:

- A copy of a vehicle rental contract dated June 26, 2019 in the amount of \$103.28 (estimated).
- A copy of a vehicle rental contract dated June 29, 2019 in the amount of \$38.53 (estimated).
- A copy of a vehicle rental receipt dated June 29, 2019 in the amount of \$109.69.
- The appellant's Request for Reconsideration, signed August 7, 2019.

The appellant included a note with her Notice of Appeal to the Tribunal stating that her request for moving expenses was handled unfairly from the beginning because she was asked to give estimates the day before the move and could not, and that she was renting a room where the owner was not allowed to rent and she could have been forced to leave if it had been discovered. The panel accepted this statement as part of the appellant's argument.

At the hearing, the appellant stated that she knows what the ministry says. She stated that she was living in a bedroom in the condo of a family friend who was not allowed to rent it under the terms of his condominium rules. The appellant stated that she would have been forced to move if the condo board had discovered the arrangement. When she was notified that a unit in a co-op became available, the appellant stated that she called the ministry to advise them and was told that someone would call her back, however this did not happen. She stated that she had little time to prepare and made arrangements with a friend to move her because she could not find anyone else.

In response to questions from the ministry, the appellant stated that she was advised of the available co-op space at the beginning of June, 2019, but she did not advise the ministry of her moving date at that time. She stated that she advised the ministry of her moving date of June 28 on June 20. The appellant stated that she had lived at the apartment for two years with no problems, but could have been evicted at any time if she had been discovered.

In response to questions from the panel, the appellant stated that she had stored her goods in a storage facility for two years at a cost of \$92.00 per month.

The ministry responded that the appellant's request for a moving supplement came on June 20th. She was asking for assistance to move her belongings from a storage locker, not a direct move from her residence. The appellant was asked to provide quotes and later requested reimbursement for moving expenses. The ministry stated that in order to be eligible for moving expenses, a person must meet the requirements of section 55(2), EAPWDR, none of which apply to the appellant. The appellant's rent is higher at the new location, she does not have arranged confirmed employment, the accommodation is not being sold, demolished or condemned and there is no indication of an imminent threat to the physical safety of anyone in the appellant's family unit, which is one person. The ministry noted that section 55(3) was not a factor in the denial of her application as the ministry concluded that exceptional circumstances existed which prevented the appellant from obtaining quotes for prior approval of the move. The ministry stated that the appellant's reason for the move was that she was offered accommodation elsewhere.

In response to questions from the panel, the ministry stated that payment for goods in storage is not considered part of shelter costs.

**PART F – REASONS FOR PANEL DECISION**

The issue in this appeal is the reasonableness of the ministry's decision to deny the appellant's request for a supplement for moving costs. The ministry determined that the appellant did not meet the criteria set out in s. 55, EAPWDR.

**Legislation****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

- (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.

-The appellant's position is that she was unable to obtain the estimates for the move the ministry requested and she was living in a situation where she could have been evicted at any time if it had been discovered that she was there in contravention of the rules of the condominium.

The ministry's position is that the appellant did not meet any of the criteria needed for approval of a moving supplement under s. 55, EAPWDR and therefore her application was denied.

The panel notes that the appellant's living situation was tenuous and that she moved to a stable co-op residence. It was a possibility, as the appellant stated, that if she had been discovered to be living in a condo apartment where rentals are not permitted, she may have been evicted, however this did not occur, and the provisions of s.55(2)(c) were not satisfied. With regard to the other criteria, s.55(2)(a) requires that there be a confirmed offer of employment and this is not the case; s.55(2)(b) permits moving costs to be paid for a move to another province or country to improve living circumstances, however the appellant moved within the province; s.55(2)(d) requires that shelter costs be significantly reduced, however the appellant's shelter costs are higher at her new residence, and s.55(2)(e) requires that there be an imminent threat to safety, however there is no submission or argument that this is the case. There is no dispute that the appellant's living circumstances will be improved at her new residence, however the legislation does not provide a supplement for a move within the province for this purpose.

As the appellant's application for a moving supplement does not meet the criteria set out in s.55 of the Employment and Assistance for Persons with Disabilities Regulation, the panel finds that the ministry reasonably denied the appellant's application.

The panel confirms the ministry decision.

The appeal is not successful.

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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

Reece Wrightman

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019 Sept 19

PRINT NAME

Julie Iuvancigh

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019 Sept 19

PRINT NAME

Stephanie Korour

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019 Sept 19