

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 15 2019, determining that the Appellant was not eligible for a supplement for storage fees because he did not meet the required criteria set out in sections 55 (moving supplement) or 57 (crisis supplement) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA) – section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – section 55, 57, 72

PART E – SUMMARY OF FACTS

The information before the ministry at reconsideration included the following:

The appellant contacted the ministry to request a supplement for outstanding storage fees on May 31, 2019.

On June 3, 2019 the ministry denied the appellant's request for a supplement to pay his storage fees, having determined that he was not eligible for a crisis supplement or a moving supplement because he had not met all of the required criteria set out in the legislation.

The appellant advised the ministry on June 4, 2019 that he had negotiated a reduction of his storage fees.

On June 14, 2019 the appellant requested an extension of time to file a request for reconsideration.

On July 8 and July 11, the appellant requested further extensions of time to file his request for reconsideration. The ministry denied the appellant's requests for further extension of time because he had already received the maximum additional time permitted by EAPWDR section 72.

The appellant submitted additional information in support of his request for reconsideration on July 15, 2019, including; a written submission signed by the appellant; a payment history and charges report from the storage facility; and two notes from the appellant's physician confirming his bipolar illness diagnosis and his inability to be employed in the future.

The ministry determined, in a reconsideration decision dated July 15, 2019, that the appellant was not eligible for a supplement for storage costs because he had not met all of the required criteria set out in the legislation.

Additional information before the panel on appeal consisted of the following:

Notice of Appeal

In the Notice of Appeal dated July 25, 2019, the appellant explained that he required an extension because his advocate was not available. He explained that he needed time to see his doctor in order to provide documents for his advocate.

Appeal Submissions

The appellant and his mother, who acted as a witness during the hearing, provided appeal submissions on behalf of the appellant.

The appellant's mother stated that she does not understand the situation. The appellant is making payments to the storage facility in order to preserve his personal belongings and it is taking a terrible toll. She stated that the appellant really could use the financial help and she understands that he would need to pay it back. She stated that she does her best to keep costs down but is not in a position to help him or she would have done it already. She feels that her son does deserve help and he will not be coming into any money.

The appellant's submission to the panel involved a significant explanation of his background and circumstances, including his medical condition. He explained that with manic bipolar his decision making skills are sometimes "off" and he "jumps the gun quite a bit". He explained that he had chosen movers who had been approved by the ministry for a move in the past to set up his storage facility. The appellant also explained that his admin skills are weak and the bill he had submitted to the ministry is not accurate and he believes there is some double billing for the storage unit. He explained that he had to give up his previous residence because he fractured several ribs and was not able to navigate the 4-5 flights of stairs. He explained that he has his whole life in his storage unit, including: clothing, paperwork, an art collection and family photos. The appellant argued that he cannot lose these items.

The ministry relied on the reconsideration decision.

Admissibility

The panel finds that the information provided in the appellant's Notice of Appeal is not new information requiring an admissibility determination in accordance with section 22(4)(b) of the *Employment and Assistance Act*. The panel finds that the information provided by the hearing by the appellant and his mother consists of argument and accepts it as such.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry's reconsideration decision dated July 15 2019, determining that the Appellant was not eligible for a supplement for storage fees because he did not meet the required criteria set out in sections 55 (moving supplement) or 57 (crisis supplement) of the Employment and Assistance for Persons with Disabilities Regulation, was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

With respect to a moving supplement, the ministry was not satisfied that the appellant had demonstrated that his storage costs were a moving cost as defined by section 55(1) of the EAPWDR, nor that he had sought or received ministry approval prior to incurring the cost as required by section 55(3).

With respect to a crisis supplement, the ministry was not satisfied that the appellant had demonstrated that the storage bill was an unexpected expense, nor that failure to obtain funds would place the appellant's physical health in imminent danger in accordance with section 57(1). The ministry was satisfied that there were no resources available to cover the cost.

The legislation provides:

Supplements for moving, transportation and living costs

55 (1) In this section:

"moving cost" means the cost of moving a family unit and the family unit's personal effects 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.

Crisis supplement

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

- (a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and
- (b) the minister considers that failure to meet the expense or obtain the item will result in
 - (i) imminent danger to the physical health of any person in the family unit, or
 - (ii) removal of a child under the [Child, Family and Community Service Act](#).

Moving Supplement

Section 55(1) of the EAPWDR allows the minister to provide a supplement for moving costs to a family unit that is eligible for disability assistance or hardship assistance in a number of circumstances set out in section 55(2)(a)-(g), provided that there are no resources available to the family unit cover the cost and the minister's approval is obtained prior to incurring the cost.

At reconsideration the ministry concluded that the appellant's storage costs were not a "moving cost" as defined by the EAPWDR, because the appellant had been renting the storage unit since 2016 and had moved three times since renting the unit. The ministry further determined at reconsideration that the appellant had not sought the minister's approval prior to incurring the cost.

The appellant argued that, while he did not seek the minister's approval, he had employed a company that had been approved by the ministry for a previous move to obtain his storage unit. The appellant argued that his belongings were in storage for so long because he had been renting furnished accommodations and living with roommates.

The panel finds that the appellant's storage costs are not a moving cost as defined by the EAPWDR. The applicable definition in the EAPWDR is very clear that this provision only contemplates the cost of moving a family unit and its personal effects from one place to another. The panel finds that the cost associated with keeping one's belongings in a storage unit for 3 years does not fall within this definition. The panel finds that the ministry reasonably concluded that the appellant's storage fees are not a moving cost. The panel further finds that the ministry reasonably concluded that the appellant had not obtained ministry approval prior to incurring the expense of his storage unit. There is no dispute that the appellant did not seek ministry approval and the panel finds that his use of a previously approved company is insufficient to meet this requirement. The panel finds the ministry's conclusion, that the appellant is not eligible for a moving supplement, to be a reasonable application of the legislation in the appellant's circumstances and reasonably supported by the evidence.

Crisis Supplement

Section 57(1) of the EAPWDR allows the minister to provide a crisis supplement to a family unit that is eligible for disability assistance or hardship assistance if the following three criteria are met: 1) the item or expense is unexpected, 2) there are no resources available to meet the expense, and 3) failure to meet the expense will result in imminent danger to physical health or removal of a child. In this appeal only the first (unexpected expense) and third (imminent danger) criteria is at issue because the ministry found that the second criterion had been met.

Section 57(1)(a) states the applicant must require the supplement to meet an unexpected expense or obtain an item unexpectedly needed. In the reconsideration decision the ministry concluded that because the appellant had rented the storage unit in 2016 and had not made a payment since 2018 it was not unexpected that his bill would be in arrears. The ministry also concluded that the events in 2017 would not have resulted in an unexpected expense in 2019. As well, the ministry concluded that failure to pay outstanding storage fees would not result in imminent danger to the appellant's physical health, despite the importance of the items in storage to the appellant.

The appellant argued that it is not true that he had not made a payment since 2018 and that he had made a payment last month. He argued that the expense is unexpected. In support of this position he argued that: there are accounting problems at the storage facility; his admin skills are very weak; his accountant says he is being double billed; and interest charges are adding up. The appellant also argued that while this expense has been ongoing since 2016, it arose out of unexpected circumstances as he had only been able to find furnished accommodations at that time and in the intervening period has lived in furnished accommodations or accommodations with roommates who were supposed to provide furniture. He argued that he wasn't planning on having a storage unit forever. With respect to imminent danger, the appellant argued that he has a manic bipolar illness and is taking medications every day. He stated that while he is not going to die, his possessions are very important to him and he cannot lose them. He argued, as a result, that his physical health is in imminent danger.

The panel finds, based on the information provided, that the ministry's conclusion that the appellant has not established that the expense was unexpected as required under Section 57(1)(a) was reasonably supported by the evidence and a reasonable application of the legislation in the appellant's circumstances. In reaching this conclusion, the panel notes that the appellant has been aware of his storage costs for several years and, despite making some payments, he has also missed payments and that he was aware of this. The appellant has known about this expense for several years and, while the panel accepts that he did not intend to keep his possessions in storage for so long, it is not unexpected that continued use of a storage unit would result in a continued expense for the rental of that unit. Furthermore, the panel finds that, while the appellant does have a serious medical condition and has had some serious injuries requiring hospitalization in the past, there was no evidence before the ministry at reconsideration, nor before the panel on appeal indicating that a failure to pay the appellant's storage costs would result in imminent danger to his physical health. Therefore, the panel finds the ministry's conclusion on this criterion to be a reasonable application of the legislation.

Conclusion

The panel finds that the ministry's reconsideration decision, which held that the appellant was not eligible for a crisis supplement or a moving supplement for his outstanding storage fees because he did not meet all of the legislated criteria in section 55 or 57 of the EAPWDR, is a reasonable application of the legislation in the circumstances of the appellant and reasonably supported by the evidence. The panel confirms the ministry's reconsideration 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

Jennifer Smith

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/09/10

PRINT NAME

Sarah Bijl

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/10

PRINT NAME

Barbara Insely

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/10