

APPEAL NUMBER  
2020-00085

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) Reconsideration Decision dated March 10, 2020 which denied the Appellant's request for a supplement for moving costs as the Ministry found that the request did not meet the eligibility requirements for a moving supplement set out under section 57 of the Employment and Assistance Regulation (EAR).

**PART D – RELEVANT LEGISLATION**

Employment and Assistance Regulation section 57

**PART E – SUMMARY OF FACTS**

The appellant is a single person in receipt of income assistance.

The evidence before the Ministry at reconsideration included:

- A Request for Reconsideration (RFR) signed by the appellant on February 25, 2020 in which the appellant wrote:
  - because of the nature of the fast sale of the home they lived in it was not possible to obtain pre-approval for the move;
  - the home they were living in sold on December 20, 2019 and they could not move into the new home until December 21, 2019;
  - an initial offer was made on November 12, 2019 with a move in date of December 20, 2019 however the buyer's financing fell through on November 28, 2019;
  - the buyer then arranged their financing and their offer was accepted on December 2, 2019;
  - the moving company provided an estimate for moving costs on December 9, 2019;
  - the moving company packed them up on December 17 and 18, 2019 and their belongings were put into storage until December 21, 2019;
  - they had to stay in a hotel for December 18, 19 and 20 because the home they had been living in needed to be moved out of and cleaned before December 20, 2019 and they could not move into the new home until December 21, 2019; and
  - they are not the home-owner and had no say or control over the speed and sale of the home.
- A receipt from the moving company dated December 23, 2019, in the amount of \$7,013.23.
- A credit refund receipt from the moving company dated December 24, 2019, in the amount of \$1,065.75, which also included a handwritten note indicating one third of the cost of \$7,013.23 less \$1,065.75 is \$1,982.49.
- A shelter information form dated January 13, 2020 indicating an address change and a rent charge of \$400.

On the Notice of Appeal form dated March 18, 2020 the appellant wrote "I do not feel the ministry fairly considered my reasons for why I could not obtain pre-approval for the moving expenses I incurred."

At the hearing, the appellant explained that the time frame for the move was very short because the initial offer regarding the sale of the home, which was made on November 13, 2019, fell through and there wasn't another accepted offer until December 6, 2019. The appellant explained that the homeowners, who are their parents, were the ones making all the arrangements and that, as a tenant, they had no part in what movers were chosen or when the belongings would be moved. The moving company provided an estimate on December 9, 2019 and the homeowners immediately arranged for a moving date of December 17 and 18 because they had to be out of the house and have it cleaned by December 20, 2019. This would require their belongings be placed into storage for three days. The appellant initially informed the panel they were aware the ministry could help with moving costs, however thought they had to present receipts and stated they did not have time to contact the ministry because it was a very stressful time not knowing where they would be moving to, they were busy with packing and the time frame was too short. During questioning, the appellant mentioned the first they learned the ministry offers a moving supplement was while they were in a ministry office in January 2020 and overheard another person asking about moving costs, so they then asked the ministry whether they could be reimbursed for one third of the cost of the homeowner's moving costs because they had furniture that had been moved. The appellant explained, as a person who has not been on assistance very long and is hoping to not be on assistance for a long period of time, they are not aware of all the things the ministry can help with. The appellant questions how they could have provided three estimates for moving when they didn't know where they were moving to until December 13, 2019, which was when the homeowners made an offer on their new house, and that the moving arrangements were being made by the homeowners, not the appellant, so it was beyond their control.

At the hearing, the ministry reviewed the reconsideration decision and pointed out that the ministry was satisfied the appellant was compelled to move because the home was sold and they had no resources to cover one-third of the cost of the move. The ministry stated the appellant was not eligible for the moving supplement because they had not received prior approval before incurring the costs of the move nor were there any exceptional circumstances for

not requesting approval prior to the move. The ministry emphasized the appellant was aware back in November they might be moving, so a call to the ministry to start the process would have been appropriate. The ministry also emphasized that the information provided has not demonstrated the moving cost and mode of moving was the least expensive and most appropriate as only one estimate was obtained, nor was it demonstrated that the appellant's belongings account for one third of the cost of the move.

**Admissibility of Additional Information**

The panel admitted the appellant's oral testimony in accordance with section 22(4) of the Employment and Assistance Act because it was the same information that was before the ministry at the time of reconsideration and was reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**PART F – REASONS FOR PANEL DECISION**

The issue on this appeal is whether the decision by the Ministry, which denied the Appellant's request for a supplement for moving costs under section 57 of the EAR, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

The legislative criteria to be considered eligible for the supplement for moving costs are as follows:

**Employment and Assistance Regulation****Supplements for moving, transportation and living costs**

**57** (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 income 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 20 [*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 initially was they did not have sufficient time to contact the ministry to request approval for moving costs, and subsequently, they were not aware until after the fact that the ministry even helped with moving costs.

The ministry's position is the appellant did not meet the legislated criteria of EAR section 57, which requires prior approval before issuing a moving supplement, which the appellant did not have. The ministry argues there is insufficient evidence to demonstrate the moving costs being requested by the appellant are the least expensive, as there was only one estimate obtained and submitted. The movers' receipt included the cost of moving the entire household, not specifically the appellant's belongings. The ministry also found that there were no extenuating circumstances demonstrated by the appellant to explain why prior approval had not been sought.

### **Panel Decision**

The legislation that authorizes the ministry to issue a moving supplement is found in EAR section 57. It requires that a number of conditions must be met and the panel reviewed each of the sub-sections to determine whether the ministry was reasonable, or not in their decision.

EAR section 57(1) provides the definitions of living costs, moving costs and transportation costs, and in the appellant's circumstance, moving cost is the relevant definition.

EAR section 57(2) allows for the minister to provide a supplement, subject to subsections (3) and (4), to assist with moving providing one of the listed reasons for moving are met. The ministry found, and the panel agrees, that the appellant met EAR section 57(2)(c) because the house they were residing in had been sold.

EAR section 57(3) states that a family unit is eligible for a moving supplement only if two conditions are met. The first condition (a) is that there are no resources available to cover the costs. The ministry found, and the panel agrees, that this condition has been met. However, EAR section 57(3)(b) requires that there must be minister's approval before incurring the costs, unless there are extenuating circumstances, which are allowed pursuant to section 57(3.1). The appellant agrees they did not have the minister's approval prior to the move, but argues there were reasons for not obtaining the prior approval, which the panel reviewed pursuant to EAR section 57(3.1). Because the appellant did not have prior approval, the panel finds the ministry was reasonable in their decision that the appellant had not met the requirements of EAR section 57(3)(b).

EAR section 57(3.1) allows for the minister to provide a moving supplement, even if the family unit did not receive the minister's approval before incurring the costs, provided the minister is satisfied that exceptional circumstances exist. The appellant argues there was not enough time, between finalizing the sale-of-home agreement and the move-out date, to allow them to contact the ministry to seek approval. The panel found the appellant provided conflicting information as to whether they were aware that a moving supplement was available to them, or not. At one point they mentioned they were aware that the cost of the move could be covered, however they thought they had to present receipts and how could they do that if the move had not yet occurred, nor did they have enough time to contact the ministry while they were busy packing. Later in the hearing the appellant later stated they only found out about a moving supplement in January, by overhearing a person in the ministry office enquiring about one, and thought perhaps they could have some of their moving costs covered.

The panel reviewed all the dates in question and read in the appellant's written statement, provided in the reconsideration request, that although the first offer fell through when the buyers could not arrange their financing by November 28, 2019, the same people who made the first offer did arrange the necessary financing and the offer was then accepted on December 2, 2019 which was only a few days later. The date of occupancy for the sold home was December 21, 2019, which remained the same. The movers came to the appellant's home on December 9, 2019 and the homeowners made the decision to proceed with the move, which would happen on December 17 and 18. This demonstrates to the panel that the appellant was aware for approximately one month that they would be moving out of their sold home on December 20, so it was not unexpected. The panel considers that if the appellant was required to contribute to the cost of moving their furniture, once they were made aware a moving

company had been chosen on December 9, it would be reasonable for them to call the ministry to enquire about possible funding. Although the appellant argues they were busy with packing and it was a stressful time, the panel could find no evidence there were any exceptional circumstances in the appellant's situation to indicate why they could not have called the ministry between December 9 and 17 to seek prior approval. The panel finds the ministry was reasonable in their decision that the appellant had not met the requirements of EAR section 57(3.1).

EAR section 57(4) allows that a supplement may be provided to assist with the least expensive appropriate moving costs. The appellant provided receipts from one moving company that was for the cost of moving the entire homeowner household, the final amount being \$5,947.48 paid. The appellant calculated that their belongings were an estimated one third of the total, being \$1,982.49. The appellant argues because they were not arranging the move, the homeowner was, that as a tenant they played no part in seeking out other moving companies. The appellant indicated they had the lower floor of the house that contained the belongings, and the panel found no evidence to support this would equate to one third of the total cost of the move. The panel considers it is reasonable for the ministry to request several estimates to determine the cost of moving the appellant's belongings to ensure the least expensive appropriate moving costs, therefore finds the ministry was reasonable in their decision that the appellant had not met the requirements of EAR section 57(4).

### **Conclusion**

The panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for a moving supplement pursuant to section 57 of the EAR, was reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant and therefore confirms the decision. The appellant is not successful in the 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  
Janet Ward

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)  
2020 April 8

PRINT NAME  
Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)  
2020 April 8

PRINT NAME  
Carla Tibbo

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)  
2020 April 8