

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("ministry") reconsideration decision dated January 7, 2021 in which the ministry found the appellant was not eligible for a moving supplement to pay for storage fees under section 55 of the Employment and Assistance for Persons with Disabilities Regulation ("EAPWDR"). Specifically, the ministry was not satisfied that there were no resources available to the family unit to cover the costs of the storage as required by section 55(3)(a) of the Regulation.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation - EAPWDR - section 55

PART E – SUMMARY OF FACTS

The evidence and documentation before the minister at the reconsideration consisted of:

1. Information from the ministry's record of decision which includes the following background information:

- The appellant is a sole recipient of disability assistance.
- In May 2019, the appellant requested a moving supplement for storage fees for 6 months. The appellant explained they had moved to furnished accommodations. A friend who was paying the storage fees had passed away.
- On July 3, 2019, the ministry denied the payment of storage fees at reconsideration finding the legislative requirements were not met. On August 30, 2019, the Employment and Assistance Appeal Tribunal ("Tribunal") rescinded the decision noting that the legislation for storage fees had changed and the appellant met the eligibility requirements at the time of the reconsideration.
- On August 15, 2019 (before the appeal was heard), the ministry provided a moving supplement for storage fees for April to November 2019 (inclusive) because the appellant had to move from previous accommodations due to a family member of the owner moving into the residence.
- On June 11, 2020, the appellant's third-party administrator advised the appellant had been evicted from housing and was now homeless. In July 2020, the third-party administrator resolved a dispute with the ministry regarding the appellant's shelter allowance and the appellant launched a request through the Ombudsperson to return to direct services from the ministry rather than continue with the third-party.
- On November 25, 2020, the appellant requested, through the third-party administrator, that the ministry pay for storage fees as the appellant was currently homeless and in the process of trying to find housing. The appellant requested 6 months of storage costs while searching for housing, explaining that their personal belongings, clothing, and furniture were already in storage and would be lost if the storage cost of \$85 per month wasn't covered.
- On November 26, 2020 the ministry advised the appellant was not eligible for a moving supplement for storage fees. On December 21, 2020, the appellant submitted a *Request for Reconsideration* ("RFR") followed by a submission from an advocate. On January 7, 2021, the ministry completed the review of the RFR.

2. An RFR signed by the appellant on December 21, 2020 with a typed submission in which the appellant confirms living at a shelter and provides argument. The appellant states that the storage company will dispose of the belongings without payment of the \$85 per month fee. The appellant states "my circumstance have not changed" since the successful appeal in August 2019.

3. Documents concerning the appellant's August 2019 appeal to the Tribunal regarding the ministry's previous refusal to pay storage costs. Appeal 2019-00263 rescinded the ministry's decision on the basis of amendments to EAPWDR section 55.

4. A letter from an advocate dated December 23, 2020. The letter provides argument and states the appellant has been homeless for over a year and pays for meals and personal bills from their disability support funds.

Additional information

Neither party filed new evidence requiring an admissibility determination under section 22(4) of the *Employment and Assistance Act* ("EAA"). The appellant filed a *Notice of Appeal* dated January 19, 2021 with a hand-written submission which the panel accepts as argument. The appeal submission also consists of a phone record from the Tribunal dated January 20, 2021, detailing a conversation in which the appellant provides further argument.

The ministry did not submit any new evidence. In an email to the Tribunal, the ministry indicates its submission on appeal will be the reconsideration summary.

Procedural matter

With the consent of both parties, the appeal proceeded as a written hearing pursuant to section 22(3)(b) of the EAA.

PART F – REASONS FOR PANEL DECISION

The issue to be decided is whether the reconsideration decision of January 7, 2021 that found the appellant was not eligible for a moving supplement for storage costs under section 55 of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. Specifically, the ministry was not satisfied there were no resources available to the family unit to cover the costs of the storage as required by subsection 55(3)(a) of the EAPWDR.

The ministry based its reconsideration decision on the following legislation:

EAPWDR**Supplements for moving, transportation and living costs**

55 (1) In this section:

"**moving cost**" means the cost of

- (a) moving a family unit and its 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...

(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 if 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;
 - (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;

(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...

Analysis

Arguments

Appellant

In the appeal submissions the appellant argues they did not have an advocate to assist with submitting the RFR as the advocate abandoned the file. The appellant explains the ministry tried to assist but neither the appellant nor the ministry "had any credentials" to advocate on the appellant's behalf. The appellant argues the legislation was not applied correctly because their "worldly possessions have got to stay into storage...until I establish housing."

In the RFR submission of December 23, 2020, the advocate states the appellant is currently homeless and staying in the shelter through no fault of their own. The advocate explains that the appellant is actively working with the advocacy organization to secure housing at which time the appellant will get their belongings out of storage. However, there is no affordable housing available to the appellant at this time.

The advocate argues the appellant's request for the moving supplement to pay for storage meets the requirement in EAPWDR section 55(3)(a) because the appellant has no resources to continue to pay the storage costs. The advocate explains that the appellant "made the hard decision to use [their] support money to pay for the storage unit" because the appellant had no family or friends who could help. The advocate argues the appellant did not request storage fees earlier this year because they "didn't know how to do it...suffers from anxiety...and could not find help from advocacy organizations as they were not operating due to the pandemic."

The advocate argues the appellant "had no choice but to pay for storage of [their] belongings from the support money" but needs the disability support allowance to pay for meals and personal bills and can no longer continue to pay for storage. The advocate argues the consequence of not having the storage fees covered: "the owner of the storage unit will dispose of [the] belongings." The appellant "will have no furniture when [they] find affordable housing."

Ministry

The ministry notes that storage costs were approved for April to November 2019 because the appellant was compelled to vacate their previous accommodation as the owner had family moving into the residence. In addition, the ministry found the appellant had "exceptional circumstances" at that time due to the death of a friend who was covering the storage costs. The ministry argues that the appellant does not have these circumstances this time as the appellant reported no change of circumstances since the appeal to the Tribunal in August 2019.

The ministry quotes its policy and procedures manual which states that storage fees may not be paid on an ongoing basis:

Storage fees can be considered a moving cost and paid by the ministry when a family unit's possessions must be placed into storage temporarily during the course of a move. Storage fees may not be paid on an ongoing basis, although exceptional circumstances (e.g. hospitalization of recipient) may be considered.

The ministry based the original decision (November 26, 2020) to refuse to provide the supplement for storage costs on its findings that the appellant “is not in the course of a move” because they are still trying to find housing and staying at a shelter in the meantime; presumably has resources to pay for storage as “client has been paying for storage for a number of months”; and did not receive the Minister’s approval before incurring the costs.

In the reconsideration decision, the ministry bases the refusal on one requirement not being met; i.e., the EAPWDR requirement to not have resources to pay for storage. The ministry argues the appellant does not meet that requirement because they have been paying the storage fees of \$85 per month from December 2019 until the present.

Regarding the appellant’s argument, not asking for assistance with storage costs earlier, the ministry notes the appellant had asked for a moving supplement for storage costs in the past including at reconsideration and appeal. In addition, the ministry notes the appellant had asked the ministry and Ombudsperson for assistance with other matters (shelter allowance and third-party administrator). The ministry argues the appellant would have had access to advocacy from December 2019 until March 2020 “as COVID was not an issue during that period.” The ministry said it “was not satisfied you were unable to ask for assistance with storage fees earlier than November 2020 because you did not know how or did not have access to advocacy.”

Panel’s decision

Section 55(3)(a) - no resources available

The ministry determines whether there are resources available to the family unit on the basis of the information provided by the applicant. The appellant’s evidence indicates they have been paying the storage costs from their support allowance since December 2019. Prior to that, the ministry provided a moving supplement for temporary storage up until November 2019, and before that the appellant’s friend was covering the cost of storage. The advocate states the appellant will take their belongings out of storage once housing is secured but the appellant does not know how much longer they will be staying at the shelter. The advocate states there is currently no affordable housing available to the appellant.

The evidence indicates the appellant needs long term storage of belongings due to the uncertainty of their housing situation but the ministry policy covers storage for a temporary duration as does section 55(2) of the EAPWDR which covers “moving costs” (including storage) when the applicant is moving to a specific location, within BC or elsewhere. The appellant’s evidence is that they “have to pay for food and personal bills” out of the disability allowance. The appellant argues they can no longer afford the cost of storage while staying at the shelter and they have no friends or family to help with the cost.

The panel finds the ministry was reasonable in finding the appellant does not meet the requirement for *no resources available to the family unit to cover the costs for which the supplement may be provided* under subsection 55(3)(a) of the EAPWDR. The appellant has been paying the storage costs out of their disability allowance since December 2019 despite having to pay for meals and personal bills as well. The appellant has not provided any evidence on how much of the support allowance is needed for food and bills; what bills the appellant has, and whether they are accruing any debts they are unable to pay. The only financial information regarding the appellant’s expenses is the cost of the storage unit, \$85 per month.

The evidence indicates the appellant had been covering the storage cost for almost a year before applying for the ministry moving supplement on November 25, 2020. The appellant argues they suffer from anxiety and did not know how to apply for the supplement but could not find an advocate to assist due to the pandemic. The panel finds the ministry was reasonable in not accepting these arguments because the appellant had applied for a moving supplement before to cover storage costs (including filing an RFR and an appeal) and had contacted the

ministry and Ombudsman about other service issues. As further noted by the ministry, advocacy resources would not have been affected by the pandemic until March 2020.

Based on the evidence that was before the minister at the reconsideration including the lack of detail about the appellant's expenses and bills and the delay in applying for the moving supplement to cover storage costs, the panel finds the ministry reasonably concluded that the requirement for no available resources under section 55(3)(a) of the EAPWDR was not met.

Conclusion

For the reasons set out above, the panel finds the ministry reasonably determined that the appellant was not eligible for a moving supplement under section 55 of the EAPWDR because the requirement for no resources in subsection 55(3)(a) was not met. The ministry is not authorized to provide a moving supplement unless all of the legislative requirements are met. The panel finds that the reconsideration decision is a reasonable application of the legislation and confirms the decision. The appellant is not successful on appeal.

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

Margaret Koren

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021-03-03

PRINT NAME

Chris McEwan

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-03-03

PRINT NAME

Reece Wrightman

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-03-03