

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated December 21, 2021 which held that the appellant was not eligible for a supplement to pay the costs of moving her belongings from storage to her residence.

The appellant had requested a supplement because she had received permission to move her belongings to her residence but could not move her belongings herself or afford to pay a moving company to move her belongings.

The ministry determined that the appellant was not eligible for a supplement because: the application was for the moving of belongings and not a family unit; that the appellant “moved three years prior”; and that the ministry was unable to confirm that the appellant did not have the resources to meet the expense of moving her belongings from storage.

**Part D – Relevant Legislation**

Employment and Assistance Act (EAA), s. 4;  
Employment and Assistance Regulation (EAR), s. 57; and  
EAR, Schedule A, s. 5(2).

**Part E – Summary of Facts**

The information before the ministry at reconsideration included:

1. The appellant was eligible for income assistance;
2. In 2018 the appellant lost her home and moved to a Single Room Occupancy facility (SRO);
3. When the appellant moved into the SRO, the appellant was not permitted to bring her belongings with her because of concerns regarding space and bedbugs;
4. In 2018 the appellant placed her belongings into storage for a monthly cost of \$99;
5. The appellant did not receive a supplement for placing her belongings into storage;
6. In 2021 the monthly cost of storage was \$187.00;
7. The appellant could not afford to pay \$187.00 per month for storage;
8. In August 2021, a new manager was hired for the building the appellant resides in;
9. The new building manager permitted the appellant to have her belongings in her residence;
10. Three separate estimates from moving companies for the cost of moving the appellant's belongings. The three estimates were:
  - a. \$435.00 (including tax);
  - b. \$500.00 (plus tax); and
  - c. \$436.00 (plus tax).

At the hearing, the appellant provided additional information which the panel determined was appropriate to admit under section 22(4) of the *Employment and Assistance Act* because the panel considers it reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

That information included:

1. In 2018 the appellant lost her residence because she was compelled to vacate by the landlord;
2. After the appellant was forced to vacate, she enlisted the help of friends to move her belongings into storage and did not receive a moving supplement;
3. After the appellant was forced to vacate she moved into various temporary living situations before she was able to become resident at the SRO;
4. The appellant moved into the SRO on August 15, 2018 but was not sure if it would be her long term residence;
5. The appellant She always expected to move her belongings once she had stable housing;
6. When the appellant moved into the SRO she was prohibited from moving her belongings;
7. The SRO had four different managers between 2018 and 2021 and it is only the current manager that approved the appellant moving her belongings to her residence;
8. The appellant described her financial situation generally as receiving \$780.00 per month in income and having a fixed accommodation expense of \$375.00;
9. The appellant corrected the record to confirm that her belongings were still in storage. The panel notes that the previous statement from the appellant (on reconsideration) was: "I ended up hiring a moving company and paid \$465.75 for moving" and that the ministry was proper to rely upon that statement at reconsideration.

Appeal Number 2022-0001

At the hearing, the ministry confirmed that it had no information about the appellant's move in 2018 and could not confirm if a request had been made at that time for a supplement.

## **Part F – Reasons for Panel Decision**

### ***Introduction***

The issue at appeal is whether the reconsideration decision dated December 21, 2021 which held that the appellant was not eligible for a supplement to pay the cost of moving belongings from a storage unit to her residence was reasonably supported by the evidence or a reasonable application of the enactment in the appellant's circumstance.

### ***Summary of The Relevant Legislation***

Section 4 of the EAA authorizes the minister to provide a supplement to a family unit that is eligible for it.

Section 57 of the EAA Regulation describes the available supplements for moving and the requirements for eligibility for a supplement.

Section 57(1) defines "moving cost" as the cost of moving a family unit and the family unit's personal effects from one place to another. The panel notes that the ministry asserted that a moving cost required both the moving of a family unit and the moving of a family unit's personal effects and that it did not apply in this situation where the application is only for the movement of personal effects.

The panel disagrees with this interpretation. The panel's determination is that, for the purpose of section 57, a moving cost can be for either or both the costs of moving a family unit and the cost of the movement of a family unit's personal effects. If there was a requirement for both a cost to move a family unit and a cost to move a family unit's personal effects, a family unit that moved without incurring a cost to move personal effects would not be entitled to a supplement. If the ministry's interpretation was correct, a family unit that did not have significant personal effects (either because of the lack of resources or because they sold their personal effects to meet other expenses) would not be entitled to a supplement. This does not accord with the plain and ordinary meaning of the definition of moving cost. It is also not consistent with the general scheme of the EAA and EAR, because a family unit without personal effects would not be entitled to a supplement when a family unit with personal effects would be entitled to a supplement.

Section 57(2) requires a family unit to be eligible for income assistance or hardship assistance to be eligible for a supplement. It also establishes that a supplement can only be provided if the move is for a specified reason. The panel notes that one of the specified reasons is that the family unit is "being compelled to vacate the family unit's rented residential accommodation".

Another reason is “if the family unit’s shelter costs would be significantly reduced as a result of the move.”

Section 57(3) imposes the requirements that a recipient in the family unit receive the minister’s approval before incurring moving costs and that there are no resources available to the family unit to cover those costs.

However, section 57(3.1), states that a family unit can still be entitled to a moving supplement if the family unit did not receive the minister’s approval before incurring the costs “if the minister is satisfied that exceptional circumstances exist.”

### ***The Appellant’s Position***

At the hearing the appellant asserted that the movement of her belongings into her residence is fundamentally a continuation of the move initiated in 2018. The appellant stated that until she was given permission by the manager of the SRO in 2021, she could not move her personal effects. The appellant also asserted that she met the requirement of section 57(2), that she does not have the resources available to her to cover the costs of moving her belongings, and that she provided the ministry with three estimates of the cost and should receive approval.

### ***The Ministry’s Position***

At the hearing the ministry affirmed its decision on reconsideration. That decision provided three reasons that the appellant was not entitled to a supplement:

1. That the movement of the appellants belongings was not “a continuation of [her] 2018 move” and that it should be “considered a separate move”;
2. That the movement of the appellant’s belongings does not meet any of the requirements of section 57(2). In particular, the ministry identified that the payment of storage fees is not a part of monthly shelter costs and therefore reducing storage fees from \$187.00 per month to \$0.00 per month would not significantly reduce the family unit’s shelter costs; and
3. That the ministry could not confirm the appellant did not have the resources to meet the expense of moving her belongings. The panel notes this determination was because the information before the ministry at reconsideration was that the appellant had moved her belongings.

### ***The Panel’s Decision***

#### **The Definition of Moving Cost**

As described above, under the heading ‘Summary of the Relevant Legislation’, the panel has determined that the correct interpretation of the definition of moving cost under section 57(1) of the EAR is that moving cost means the cost of:

1. Moving a family unit from one place to another; or
2. Moving the family unit’s personal effects from one place to another; or
3. Moving both the family unit and the family unit’s personal effects from one place to another.

Consequently, to the extent that the ministry found that there was no supplement available to the appellant unless her family unit was being moved from one place to another, the panel finds that to not be a reasonable application of the enactment in the appellant's situation.

#### Continuation of the 2018 Move

The panel was unable to find any reference in the EAA or EAR to a family unit not being entitled to a supplement under s.57 because of the length of time between the movement of a family unit and the movement of a family unit's personal effects from one place to another. The panel notes that the appellant is not seeking a supplement for the costs of storing her belongings and is only requesting a supplement for the cost of moving them.

The panel has determined that the ministry's determination that the appellant did not initiate a request for a supplement in 2018 was reasonably supported by the evidence because neither the appellant nor the ministry has any record of a request being made.

However, for the reasons described above regarding the definition of moving cost, the panel finds that the appellant's request for a moving supplement does not require that cost be a continuation of her 2018 move because a supplement can be provided for the cost of moving a family unit's personal effects without the requirement for the moving of a family unit.

The panel also notes that section 57(3.1) may apply to the appellant's situation if, in order to receive a supplement for the cost of moving her belongings to her residence, the ministry required her to make a request for a supplement related to the moving costs she incurred in 2018. The ministry did not make any enquiries of the appellant regarding whether there were "exceptional circumstances" that prevented her from receiving the minister's approval before incurring the costs of her 2018 move.

Consequently, to the extent that the ministry relied on the absence of the appellant requesting a supplement for moving expenses for her 2018 move, the panel finds that to not be a reasonable application of the enactment in the appellant's situation.

#### Section 57(2)(c) – Movement Because Compelled to Vacate

The appellant stated on appeal that she was "compelled to vacate" her prior residence. However, the appellant did not elaborate on why she was compelled to vacate.

At reconsideration, the ministry stated that "based on the information [the appellant] provided, [she was] not moving yourself and your belongings for the purposes set out in section 57(2)(a-e)." There is no indication in the appeal record that the ministry ever requested information about why the appellant vacated her residence in 2018.

The panel considers that the appellant did not provide information and the ministry did not request information about the appellant's reason for moving in 2018 because the ministry proceeded on the assumption that an entitlement to a supplement for the cost of moving personal effects in 2021 required the moving of a family unit in 2021.

At reconsideration, the appellant in response to the decision that she did not meet the criteria in 57(2) provided the written statement: "I believe my request falls under this eligibility criteria. I lost my home in 2018 and had to move into [SRO] housing. At that time, I requested to bring my belongings with me...but the manager declined it."

Consequently, the panel finds that the ministry's assumption that although the appellant "lost" her home that this could not satisfy the requirement that the moving cost was incurred "because the family unit is being compelled to vacate the family unit's rented residential accommodation for any reason" (section 57(2)(c)) was not reasonably supported by the evidence.

#### Section 57(2)(d) – Shelter Costs Significantly Reduced

If the appellant moved her belongings from storage to her residence she would reduce her monthly costs by \$187.00. In the context of the appellant's financial situation (income of \$560.00 per month after accommodation expenses) this would be a significant reduction.

However, as the ministry properly identified, "shelter costs" is a defined term in the EAR. That definition only includes: rent, mortgage payments, insurance premiums, property taxes, utilities; and the actual costs of maintenance and repairs."

Consequently, even though the appellant will save a cost each month it is not a reduction of her shelter cost. The panel finds the ministry's determination that section 57(2)(d) does not apply to the appellant's application is a reasonable application of the enactment in the appellant's circumstance.

#### No Resources Available

The panel notes that there was a very significant change in the information provided at the hearing and the information before the ministry at reconsideration.

The original decision (available to the ministry at reconsideration) noted that "On October 27, 2012 [the appellant] contacted the Ministry. [The appellant] stated you can no longer afford your storage unit and were allowed to move [her] stuff in this month." The original decision relied only on section 57(2) and did not provide any statement regarding whether there were resources available to the appellant.

The appellant, in support of her application for reconsideration, provided a written statement to the ministry. The information before the ministry at reconsideration was that the appellant had incurred the cost to move her belongings to her residence. The appellant stated "I experienced a significant financial strain having to pay for the increased storage fees and then moving costs." The panel notes that there is no indication that the ministry requested or received any financial information from the appellant regarding this statement included in the application for reconsideration.

However, at the hearing the appellant stated that her belongings were still in storage which was in direct conflict with her statement at reconsideration. The panel noted that the appellant had

provided estimates but no invoice or proof of payment regarding the movement of her belongings.

The panel finds that because the only information regarding the location of the appellant's belongings comes from the appellant (her written statement on reconsideration and her verbal statement at the hearing) that the panel must accept the most recent information as the most reliable.

The panel finds that because the appellant indicated that she "experienced a significant financial strain having to pay for ... moving costs" and the ministry made no enquiry about the appellant's financial situation, that the ministry's determination that there were financial resources available to the appellant was not reasonably supported by the evidence.

### ***Conclusion***

The panel rescinds the ministry decision.

The panel determines that the ministry did not reasonably apply the enactment in the appellant's situation because it determined that a supplement for the moving of a family unit's personal effects required an application for a supplement for moving a family unit.

### **Extracts of the Relevant Legislation**

#### **EAA, s. 4**

#### **Income assistance and supplements**

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

#### **EAR, s. 57**

#### **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.

## **EAR Schedule A, s. 5(2)**

### **How actual shelter costs are calculated**

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

(a) rent for the family unit's place of residence;

(b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;

(c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;

(d)property taxes for the family unit's place of residence if owned by a person in the family unit;

(e)utility costs;

(f)the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

APPEAL NUMBER 2022-0001

**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)

Section 24(2)(a)       or Section 24(2)(b)

**Part H – Signatures**

Print Name

Trevor Morley

Signature of Chair

Date (Year/Month/Day)

2022/Feb/07

Print Name

Kenneth Smith

Signature of Member

Date (Year/Month/Day)

2022/02/11

Print Name

Melissa McLean

Signature of Member

Date (Year/Month/Day)

2022/02/08