

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision dated, September 12, 2022, which determined the appellant was not eligible for a moving supplement to reimburse moving costs, as per the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”).

Specifically, the ministry determined the appellant did not receive the minister’s approval before incurring those costs as required under section 55(b)(3) of the Regulation and did not demonstrate that exceptional circumstances existed as required under section 55(3.1) of the Regulation.

### **Part D – Relevant Legislation**

*Employment and Assistance for Persons with Disabilities Act*, section 5

Employment and Assistance for Persons with Disabilities Regulation, section 55

**Part E – Summary of Facts****Relevant Evidence Before the Minister at Reconsideration****Ministry Records show:**

- The appellant is a sole recipient of a Persons with Disabilities (PWD) designation.
- Prior to August 1, 2022 the appellant resided at address A where he paid \$800/month rent.
- On July 11, 2022 the appellant provided a tenancy agreement showing he planned to move to address B where he would pay \$328/month rent.
- On August 3, 2022 the appellant provided an invoice from a moving company showing it moved his belongings on July 29, 2022. He paid the company \$680 cash. The appellant noted that before he moved the ministry told him to bring in the receipt for reimbursement.

**Request for Reconsideration (August 12, 2022)**

The appellant states that as his English is not very good, he did not understand that he had to get approval before paying for the moving cost. He moved and then paid, and then found out he made a mistake. As the moving cost was \$680 (about half of his monthly income), he cannot afford the expense and so would appreciate it if the ministry could approve his moving cost.

**Note from Appellant (no date)**

The appellant provided the following in response to the ministry's statement that the appellant did not ask for the ministry's help prior to incurring the costs and has not provided any further information to indicate there were exceptional circumstances that prevented him from doing so.

The appellant stated that on July 26, 2022 he went to a ministry office at a specific location and advised someone he was moving on July 28, 2022. He states he was advised to move, bring in the receipt and was told the ministry would pay his moving cost.

**Invoice from Moving Company (July 29, 2022)**

Total cost - \$680

**BC Housing Residential Tenancy Agreement (July 6, 2022)**

Tenancy starts on August 1, 2022

**Additional Information**Appellant

**Notice of Appeal (September 14, 2022)** – Reasons for Appeal was left blank.

Ministry

The ministry's submission was the reconsideration summary provided in the Record of Ministry Decision.

The panel determined that there was no additional information.

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

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for a moving supplement to reimburse moving costs, as per the Regulation, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine the appellant did not receive the minister's approval before incurring those costs as required under section 55(b)(3) and did not demonstrate that exceptional circumstances existed as required under section 55(3.1) of the Regulation?

The ministry was satisfied the appellant's shelter costs have been significantly reduced because of his move and that his moving costs represent the least expensive appropriate mode to move his belongings, meeting sections 2(d) and 4(a) of the Regulation.

As well, on reconsideration, the ministry was satisfied the appellant does not have available resources, meeting section 55(3)(a) of the Regulation.

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

### **Appellant Argument**

The appellant argues that before moving, the ministry advised him that it would give him moving money. He stated that on July 26, 2022 he went to a ministry office and advised someone he was moving on July 28, 2022. He argues that he was advised to move, bring in the receipt and was told the ministry would pay his moving cost.

The appellant also argues that as his English is not very good, he did not understand that he had to get approval before paying the moving cost. He moved, as he believed he was told to do so by the ministry, and then paid, and then found out he made a mistake. As the moving cost was \$680 (about half of his monthly income), he cannot afford the expense and so would appreciate it if the ministry could approve his moving cost.

### **Ministry Argument**

The ministry argues the appellant moved into his new residence on August 1, 2022 and did not ask for the ministry's help until August 3, 2022. This means he did not obtain the ministry's prior approval before incurring moving costs as required by section 55(3)(b) of the Regulation.

The ministry acknowledges that the appellant stated that because of a language barrier he did not understand he needed to obtain the ministry's prior approval. However, the ministry argues that there is

no evidence to suggest that the appellant or his advocate spoke with ministry staff about help with his moving costs until after he moved.

The ministry argues further that the appellant was aware he was moving since at least July 6, 2022 when his new tenancy agreement was signed, and he had not explained why he was unable to ask for the ministry's help prior to his move. As a result, the ministry argues it is unable to establish that exceptional circumstances exist. The ministry argues that as all the legislated criteria under section 55 of the Regulation were not met, the ministry is unable to approve the appellant's request for a moving supplement to reimburse him for his moving costs.

### **Panel Analysis**

#### Section 5, EAPWDR – eligibility for supplement

Section 5 of the EAPWDR states subject to the regulations, the minister may provide a supplement for a family that is eligible for it. The panel notes ministry records show the appellant is a sole recipient with PWD designation.

#### Section 55(3)(b) and 55(3.1), EAPWDR – prior approval

Section 55(3)(b) of the EAPWDR states a family is eligible for a supplement only if a recipient receives the minister's approval before incurring those costs. And section 55(3.1) states a supplement may be provided even if the family did not receive the minister's approval before incurring the costs if the minister is satisfied that exceptional circumstances exist.

The appellant provided evidence in the form of a written statement advising he spoke with someone at a ministry office on July 26, 2022 regarding his move on July 28, 2022 and was advised to move and then bring in the receipt. The panel also notes ministry records show that on August 3, 2022, when providing the receipt from the moving company, the appellant advised that before he moved the ministry told him to bring in the receipt for reimbursement.

The panel finds the appellant's evidence indicating he received verbal approval for his moving cost, prior to moving, plausible. He provided details as to the date and the advice he received from someone at a specific ministry office on July 26, 2022. The appellant also repeated the advice received to the ministry approximately one week later, adding weight to its credibility. For its part, the ministry adduces no evidence to suggest that the appellant's evidence about his discussion of moving costs with a ministry official on July 26, 2022 is unreliable or not credible.

Although the appellant stated in his Request for Reconsideration that as his English is not very good, he did not understand that he had to get approval before paying for the moving cost, the panel finds this inconsistency can be attributed to the appellant's lack of understanding of what the ministry was requesting.

Section 55(3)(b) of the Regulation states a family is eligible for a supplement only if a recipient receives the minister's approval before incurring those costs. The panel notes the legislation does not stipulate the form of the approval. As the panel finds the appellant did receive verbal prior approval before incurring

the moving costs, it finds section 55(3)(b) of the Regulation was met. As well, since the panel finds section 55(3)(b) was met, section 55(3.1) of the Regulation is not required.

### **Conclusion**

In conclusion, as section 55(3)(b) of the Regulation was met, the panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for a moving supplement, was not reasonably supported by the evidence.

The appellant is successful on appeal.

## Schedule of Legislation

### Employment and Assistance for Persons with Disabilities Act

#### **Disability assistance and supplements**

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

### Employment and Assistance for Persons with Disabilities Regulation

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

**55** (1) In this section:

...

"moving cost" means the cost of

(a) 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.

**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  
Connie Simonsen

Signature of Chair

Date (Year/Month/Day)  
2022/10/18

Print Name  
Greg Allen

Signature of Member

Date (Year/Month/Day)  
2022/10/18

Print Name  
Maryam Majedi

Signature of Member

Date (Year/Month/Day)  
2022/10/18