

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (“ministry”) dated November 7, 2022, in which the ministry denied the appellant’s request for a moving supplement to pay storage costs.

The ministry was satisfied that the appellant was compelled to vacate her rented residential accommodation, and that she did not have resources available to meet the storage costs for her belongings while living in an emergency short-term shelter. However, the ministry was not satisfied that:

- the appellant had requested or received approval from the ministry before incurring the storage costs;
- the appellant was in the course of a move, because she had not said how long she would be at the shelter, and moving costs can only be provided during the course of a move;
- extraordinary circumstances existed, so that the ministry might provide a supplement even if the appellant did not receive approval before incurring the costs.

Part D – Relevant Legislation

Employment and Assistance Act, section 4
Employment and Assistance Regulation (“EAR”), section 57 and Schedule A, sections 4(2) and 5(2)

Full text of the legislation is provided in the Schedule of Legislation at the end of the Reasons.

Part E – Summary of Facts

The hearing took place by teleconference. The appellant attended with an advocate and an interpreter who each joined the hearing from separate locations

Evidence before the Ministry at Reconsideration:

The appellant is a single parent with one child, and a recipient of income assistance under the Employment and Assistance Act.

On August 12, 2022, the ministry was advised that the appellant had moved from Address #1 in Municipality #1 and was living at a temporary shelter in Municipality #2. The ministry discontinued the shelter allowance portion of the appellant's income assistance.

On August 18, 2022, the advocate contacted the ministry to ask for a moving supplement for the cost of moving the appellant's belongings into storage and for storage fees until the appellant was able to find another place to live. Ministry records indicate that the advocate said that they would provide a written request for moving and storage so the ministry could consider the request.

On September 22, 2022, the advocate contacted the ministry and was told to submit an "intent to rent" document. The ministry also received an invoice from a storage company, dated September 8, 2022, for rental of a storage unit starting on September 9, 2022, and continuing month to month from October 2022 through January 2023. Charges were \$207.38 rent plus an unspecified \$22.05 "fee charged" for the partial month of September, and \$414.75 for each month following, plus insurance of \$8 per month. The invoice indicated that \$237.43 had been prepaid.

In a letter dated September 22, 2022, a support worker at the shelter confirmed that the appellant and her child lived at the shelter in Municipality #2. The shelter was described as an emergency short-term shelter for single women and women with children. The worker confirmed that the appellant was not responsible to pay rent or utilities while living there.

The appellant had additional expenses and childcare responsibilities due to her child's anxiety and difficulty in adapting to living in the shelter, including the need to buy food because the child did not eat the food the shelter provided. The appellant was looking for permanent accommodation but so far had been unable to find permanent housing that she could afford.

Evidence at the Hearing:

At the hearing, the appellant stated:

- When she separated from her spouse 2 years ago, she moved to Address #1, which was a room in a house, with a monthly rent of \$1,100. The accommodation was not suitable for a child and the rent was too high, but the appellant found it impossible to rent other accommodation because of the language barrier, as she does not speak English.

- She has applied to BC Housing, with the support of the principal and the counsellor at her child's school. They had visited Address #1 and saw that it was not suitable for a child and contributed to the child's anxiety and behavioral issues.
- The appellant received an eviction notice because she could no longer afford to pay the rent at Address #1. When she could not find another place to live, BC Housing and a settlement worker suggested that she move to the shelter while she waited for permanent accommodation.
- The appellant and her child moved to the shelter, but they were able to leave their belongings at Address #1 for a period of time, until the landlord told her she would have to remove them.
- The appellant had nowhere else to store her possessions, so was forced to rent commercial storage space.
- She and her child are on the priority housing list with BC Housing, but they are still waiting, though they are told there may be a place for them by the spring of 2023.
- When she was told by the advocate that the ministry said she had to submit documents to prove that she was renting storage, she thought that meant the ministry would pay the cost.
- She gave the ministry the storage invoice a few days before she moved her belongings into the storage unit; whether or not the ministry approved the storage fees, she was compelled to move her belongings from Address #1.

The advocate stated that they have known the appellant for 2 years and confirmed that her situation is as she stated. The advocate communicated with the ministry about the storage fees, on behalf of the appellant. The advocate said that a settlement worker is also helping the appellant to apply for other non-profit housing, but they have not had any result yet.

Ministry:

In answer to questions from the panel, the ministry advised that requests for pre-approval of moving costs can be made by telephone, online through MyServe, or in person at the ministry office.

Admissibility of Additional Evidence:

Neither party objected to the additional oral evidence of the appellant, the advocate or the ministry at the hearing.

The oral evidence of the appellant and the advocate at the hearing provides additional information about the appellant's living situation, her need for storage, and the advocate's communications with the ministry on her behalf. The oral evidence of the ministry provides additional information about the process for obtaining prior approval of moving costs. The panel finds that the additional evidence is reasonably necessary for the full and fair disclosure of all matters relating to the decision under appeal, and therefore it is admissible under Section 22(4) of the Employment and Assistance Act.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, in which the ministry denied the appellant a supplement for moving and storage costs, was reasonably supported by the evidence, or was a reasonable application of the legislation in the appellant's circumstances.

The ministry was not satisfied that the appellant's storage costs were incurred in the course of moving, or that the appellant had received ministry approval before incurring the costs. The ministry also determined that no extraordinary circumstances existed, to excuse the appellant from the requirement that she have prior approval.

Appellant's Position:

The appellant maintains that, when she was forced to leave Address #1, she had no way to preserve her belongings, other than renting a storage unit. She says that she provided the invoice for storage costs to the ministry before she moved her belongings, but the ministry took too long to review the request.

She says that she is doing everything she can to find permanent accommodation, but has been unsuccessful, despite the efforts of the advocate and a settlement worker. She is going to move from the shelter as soon as she has a place to go. She cannot give an exact date or an address until that accommodation becomes available, although she has been given an approximate date of the spring of 2023. The appellant says that she needs the support from the ministry to pay the storage costs so that she can afford to buy her child the food they need, as well as pay for her own medical and other expenses. The advocate points out that the stress of mounting storage costs is affecting the appellant's and the child's mental health.

Ministry's Position:

At the hearing, the ministry relied on its reconsideration decision.

The ministry was satisfied that the appellant was compelled to vacate their rented residential accommodation. The ministry was also satisfied that the appellant did not have resources available to cover the storage costs.

However, the ministry determined that the appellant had not asked for the ministry's approval of the storage costs before incurring the costs. The ministry maintains that the appellant should have asked for assistance from the ministry to move or store her belongings when she moved from Address #1. The ministry is not satisfied that extraordinary circumstances existed that would have released the appellant from the requirement that she receive prior approval under section 57(3)(b) and 57(3.1) of the EAR.

At the hearing, the ministry maintained that the ministry would only consider a request for storage costs when a move was planned to a specific address on a specific date. The ministry says that the legislation does not provide for payment of storage fees for a person who is living in a temporary shelter, or when it is unknown how long the storage will be needed.

Panel Decision:

Under section 57 of the EAR, the ministry may provide a supplement for moving costs if a family unit meets the requirements in section 57, including:

1. moving costs are required for one of the reasons set out in section 57(2), which include moving because the family unit is being compelled to vacate the family unit's rented residential accommodation;
2. the family has no resources available to cover the costs;
3. the family has the ministry's approval before incurring the costs.

Under section 57(3.1), the ministry may provide a supplement for moving costs even if the family unit did not have prior approval from the ministry, if the ministry is satisfied that extraordinary circumstances exist.

The ministry was satisfied that the appellant was moving for a reason set out in section 57(2), because she was compelled to vacate the rented premises at Address #1. The ministry was also satisfied that the appellant had no resources available to cover the storage costs.

Eligible Moving Costs:

Section 57(1) of the EAR defines "moving costs" to include storage costs while the family is moving, if the ministry is satisfied that storage is necessary to preserve personal effects.

In its reconsideration decision, the ministry did not indicate if it was satisfied that storage was needed to preserve the appellant's personal effects. The appellant could not legally leave her belongings at Address #1 any longer and had no storage available at the temporary shelter. The appellant has stated that she does not know anyone who could store her belongings for her. Therefore, the panel finds that storage was needed to preserve the appellant's personal effects.

In its reconsideration decision, the ministry pointed out that storage could only be provided "on a temporary basis during the course of a move." At the hearing, the ministry took the position that it could only provide storage for up to 30 days, and then only if the appellant was moving to a specific address.

The panel notes that section 57 of the EAR does not require that the family unit be moving to a specific address, within a fixed timeline, before the ministry can provide a moving supplement for storage costs. The appellant is in a temporary homeless shelter, using her best efforts to move to a permanent address, with the help of the advocate and a support worker. She is dependent on the efforts of others to help her find permanent suitable accommodation. The panel notes that she was paying a high rent for a single room that was not suitable for her child at Address #1 but was unable to look for other accommodation effectively because of the language barrier.

The panel finds that the appellant is in the process of moving because she is in transit, living in a temporary shelter and using her best efforts, through the advocate, a settlement worker, a

support worker, and authorities at her child's school, to find a permanent address. Therefore, the panel finds that the appellant's storage costs are "moving costs" as defined in section 57 of the EAR.

Prior Approval:

The ministry denied the appellant a supplement for storage costs because it was not satisfied that the appellant had received or requested approval from the ministry before incurring the costs. In its reconsideration decision, the ministry notes that the appellant did not ask for assistance to move, or for storage of her belongings, when she moved from Address #1. The ministry stated that "to determine your eligibility for storage costs, the ministry must determine if you were eligible for a moving supplement when you moved from your previous address." The ministry noted that it did not know when the appellant moved into the shelter, or when she placed her belongings in storage.

While a family will usually require storage when they begin a move, that was not the appellant's situation. The additional evidence establishes that, when she moved from Address #1, she did not need to place her belongings in storage because the landlord permitted her to leave her belongings in the landlord's premises. There would be no reason to ask the ministry for approval of storage costs before she knew she would need to pay for storage.

Further, the panel notes that section 57(3)(b) requires the appellant to obtain ministry approval "before incurring those costs", not before a move begins. The appellant did not begin to incur storage costs until September 2022, and she requested approval of those costs through her advocate on August 18, 2022.

Considering the additional evidence about when storage was needed, and when the costs were incurred, the panel finds that it is not reasonable for the ministry to deny a moving supplement for storage costs on the basis that the appellant did not request the supplement before she moved from Address #1.

Extraordinary Circumstances:

Although she requested approval of storage costs before incurring those costs, the appellant did not receive approval from the ministry before she incurred the costs. Under section 57(3.1), the ministry may provide a supplement for moving costs even if the family unit did not receive ministry approval before incurring the costs, if the ministry is satisfied that extraordinary circumstances exist.

At the hearing, the panel invited the ministry to clarify how the ministry applies the statutory wording in section 57(3.1), to better understand the circumstances the ministry might consider to be "extraordinary" under section 57(3.1), and how the ministry determined that the appellant's circumstances did not fit that requirement. The ministry representative advised the panel that the ministry determines whether there are extraordinary circumstances on a case-by-case basis but declined to give any specific examples or any further explanation.

The appellant's need for storage was urgent and time-limited, to preserve her personal effects when the former landlord gave her notice to remove them from Address #1. Further, the appellant is unable to communicate with the ministry directly, because of the language barrier. She depends on an advocate to make requests to the ministry on her behalf, and to submit documents for her. The panel finds that the appellant, through the advocate, asked the ministry for approval of storage costs on August 18, 2022. She obtained an invoice for prospective storage fees on September 8, 2022. She gave the invoice to the advocate to provide to the ministry before she placed her belongings in storage in mid-September 2022. The ministry denied the request for storage costs on October 17, 2022.

The appellant cannot communicate directly with the ministry and has no control over how long the ministry takes to approve a request for moving costs. Therefore, considering the language barrier and the urgency of the need to store her belongings, the panel finds that the ministry was not reasonable in its determination that there were no extraordinary circumstances in the appellant's situation that would permit it to provide a moving supplement for storage costs even though the appellant had not received approval before incurring the costs.

Shelter Allowance:

In the initial request, the advocate asked the ministry to provide the appellant's shelter allowance to pay for the storage costs. Under Schedule A, section 5(2) of the EAR, a shelter allowance is based on actual shelter costs, which can only include the items set out in section 5(2): rent, mortgage payments, house insurance premiums, property taxes, utility costs, or actual costs of approved maintenance and repairs. The advocate did not pursue this argument at the hearing, but in any event, the panel finds that the ministry's decision that it could not provide a shelter allowance to pay storage costs was a reasonable application of the legislation in the appellant's circumstances.

Apparent Discrepancies:

The panel notes discrepancies between the invoice and the reconsideration decision. In its reconsideration decision, the ministry states that the appellant has not paid any amount towards storage costs. However, the invoice shows the storage cost for the partial month of September as prepaid. The ministry also states that the cost of storage from September to December 2022 is \$1,691. The invoice shows the cost of storage as \$1,691 until January 31, 2023, after deducting a prepaid amount of \$237.43 for the partial month of September.

The panel also notes that, according to the appellant and the ministry, the appellant's entire shelter allowance was removed, which would appear to be inconsistent with the calculations under Schedule A, section 4(2) providing for a minimum monthly shelter allowance.

The panel leaves it to the parties to resolve any discrepancies, which are beyond the scope of this appeal.

Conclusion:

The panel finds that the ministry's reconsideration decision, in which it denied the appellant a supplement for storage costs, was not reasonably supported by the evidence and was not a reasonable application of the legislation in the appellant's circumstances. The panel rescinds the reconsideration decision. The appellant is successful in the appeal.

Schedule of Legislation

Employment and Assistance Act

Income assistance and supplements

s. 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.

Employment and Assistance Regulation

Supplements for moving, transportation and living costs

s. 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.

Schedule A

Income Assistance Rates

Monthly shelter allowance

s. 4 (2) The monthly shelter allowance for a family unit other than a family unit described in section 15.2 (1) of the Act is the greater of

(a) the minimum set out in the following table for the family unit, and

(b) the lesser of

(i) the family unit's actual shelter costs, and

(ii) the maximum set out in the following table for the family unit.

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$375
2	2 persons	\$150	\$570
3	3 persons	\$200	\$665
4	4 persons	\$225	\$715
5	5 persons	\$250	\$765
6	6 persons	\$275	\$815
7	7 persons	\$300	\$865
8	8 persons	\$325	\$915
9	9 persons	\$350	\$965
10	10 persons	\$375	\$1 015

s. 5 (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.

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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)

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

Part H – Signatures

Print Name
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)
2022/12/16

Print Name
Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)
2022/12/16

Print Name
Bill Farr

Signature of Member

Date (Year/Month/Day)
2022/12/19