

Part C – Decision Under Appeal

Under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated December 23, 2022, that denied the appellant a moving supplement under section 55 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The appellant asked for the supplement for the costs of “junk” removal and moving items from the appellant’s previous accommodation.

The ministry found that the requirements that the appellant did not have resources to cover the costs, the appellant had asked for approval before incurring the costs, and the costs were the least expensive appropriate cost were met. However, the ministry was not satisfied that either cost was a “moving cost” as defined in section 55(1) because the appellant was not moving and because “junk” removal is not included as a cost that can be covered. The ministry also found that the appellant was not eligible because the appellant was not moving for any of the reasons listed in section 55(2).

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 55

Part E – Summary of Facts**Information before the ministry at reconsideration**

The appellant is a sole recipient of disability assistance. On October 19, 2022, the appellant asked for a moving supplement. On October 31, 2022, the appellant submitted a receipt for “junk” removal and a receipt for moving expenses. Both documents indicate that the “junk” removal and items to be moved were from accommodation in which the appellant resided until November 1, 2020, at which time the appellant moved to his current rental accommodation. The appellant did not ask for a moving supplement in November 2020 when he moved. In communications with the ministry on November 10, 2022 and November 15, 2022, the appellant explained that he had been storing belongings at his previous residence because his current rental unit is small and because he was too sick to manage a move at that time. He stated that he now has to move some of his belongings and dispose of others because his former roommate must move to long term care.

On November 15, 2022, the ministry denied the appellant’s request for a moving supplement because the appellant had not obtained prior approval and the legislation does not allow funding for “junk” removal.

Information provided on appeal and admissibility

The appellant stated in the Notice of Appeal that there was no chance to get pre-approval of the moving costs “due to the ‘acuity’ of the need to move.”

The appellant did not provide any additional submissions for the written hearing.

By email on January 18, 2023, the ministry indicated that its submission is the reconsideration summary provided in the Record of Ministry Decision.

The panel admitted the information in the appellant’s Notice of Appeal under section 22(4) of the *Employment and Assistance Act* as information reasonably required for full and fair disclosure of the matters at issue. The panel considered the information to be directly related to one of the original reasons for the ministry’s denial.

The positions of both parties are set out in Part F of this decision.

Part F – Reasons for Panel Decision**Issue on Appeal**

The issue on appeal is whether the ministry's decision to deny the appellant a moving supplement to cover the costs of moving and disposing of the appellant's personal effects was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. That is, was the ministry reasonable when determining that the requirements of section 55 of the EAPWDR were not met because:

- Moving the appellant's belongings and junk removal are not "moving costs" as defined in section 55(1), and
- The appellant was not moving for any of the reasons listed in section 55(2).

Panel Decision*Positions of the Parties*

Based on the available information, the appellant's position is that he needs a moving supplement because with short notice, he was required to remove his belongings from his former residence, some of which needed to be relocated to the appellant's home and others that needed to be disposed of. The appellant also argues that he needs the supplement because of his limited financial resources and that he was unable to get prior approval because of the "acuity" of the situation.

The ministry's position is that not all requirements for a moving supplement under section 55 of the EAPWDR have been met.

The ministry found that the requirements of sections 55(3) and (4) were met because the appellant does not have resources to repay the costs, asked for a moving supplement before incurring the costs, and the costs were the least expensive appropriate costs.

However, the ministry found that the requirements of sections 55(1) and (2) were not met.

With respect to the requirements of section 55(1), the ministry found that "moving costs" as defined do not include the cost of moving belongings from where they are stored if the applicant is not moving or changing residences. The ministry argues that because the cost is for moving belongings that have been stored at the appellant's former residence since

November 1, 2020, when the appellant moved to his current residence, the cost of relocating the belongings now is not a “moving cost.” The ministry also argues that “junk” removal is not included in the definition of “moving cost” and therefore the ministry has no ability to pay those costs.

With respect to the requirements of section 55(2), the ministry argues that a supplement could only be provided if the appellant was moving for one of the reasons listed in paragraphs (a) through (d), which include moving for employment, reduced shelter costs, and physical safety. The ministry’s position is that the appellant is not moving for any of the listed reasons.

Panel’s Analysis

The panel notes that the only requirements at issue are those set out in section 55(1) and (2) of section 55 of the EAPWDR. The ministry was satisfied that all other requirements were met.

With respect to the ministry’s determination that the cost of moving the appellant’s belongings from his former residence to his current residence is not a “moving cost” as defined in section 55(1), the panel notes that section 55(1) defines “moving cost” as 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.

While the definition allows for storing belongings “while the family unit is moving,” the panel’s view is that it is not reasonably interpreted as covering the moving of belongings after the move has been completed. The panel considers its interpretation to be consistent with the language used in section 55(1)(a) – if the intention was for the supplement to cover moving personal effects that are not part of a family unit moving, language distinguishing the move of the family unit from the move of its belongings could have been included.

Further, the requirements of section 55(2) show that a supplement for “moving costs” can only be for moving for one of the reasons listed in paragraphs (a) through (d). As the ministry stated, the appellant is not in the process of moving or changing residences. The appellant’s circumstances are that he moved to his current residence almost 2 years prior

to asking for this moving supplement. For these reasons, the panel finds that the ministry was reasonable to decide that the cost of moving the appellant's belongings from his former residence is not a "moving cost" within the meaning of section 55.

The panel also finds that the ministry was reasonable to conclude that the definition of "moving costs" does not include disposing of belongings, whether or not such disposal is during the course of a family unit moving. The definition only includes "moving" items and no language relating to disposal.

With respect to the ministry's determination that the requirements of section 55(2) are not met, the panel notes that section 55(2) describes the only circumstances under which a supplement for a "moving cost" may be provided. These circumstances include:

- moving anywhere in Canada for confirmed employment;
- moving to another province or country to improve living circumstances;
- anywhere in British Columbia due to being compelled to vacate the family's rental residential accommodation;
- to significantly reduce shelter costs; or
- to avoid an imminent threat to physical safety; or, to another province or country to improve living circumstances.

The panel finds that evidence was not provided to show that the appellant's circumstances are any of those described in section 55(2). Accordingly, the panel finds that the ministry was reasonable to decide that the requirements of section 55(2) were not met.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for a supplement to pay for the moving or disposal of his personal effects, was a reasonable application of the legislation in the appellant's circumstances.

The panel confirmed the reconsideration decision. The appellant is not successful on appeal.

Relevant Legislation

EAPWDA

55 (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 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.

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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

Jane Nielsen

Signature of Chair

Date (Year/Month/Day)

2023/01/26

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2023/01/26

Print Name

Shelly McLaughlin

Signature of Member

Date (Year

2023/01/26