

Part C – Decision Under Appeal

Under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated July 18, 2023, that denied the appellant a moving supplement under section 57 of the Employment and Assistance Regulation (Regulation). The appellant asked for the supplement to pay an invoice from the storage facility in Alberta where her belongings currently are stored, and rental of a moving truck, and gas.

Part D – Relevant Legislation

Employment and Assistance Act section 4 (Act)
Employment and Assistance Regulation section 57 (Regulation)

Please see the attached copy of the legislation in Appendix A.

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

The appellant is a family unit of two in receipt of \$1280.00 monthly income assistance. This amount includes \$570.00 for a support allowance, and \$710.00 for a shelter allowance. \$20.00 is deducted and applied directly to the appellant's debt with the ministry.

The appellant has been living at her current residence in British Columbia since May 15, 2023.

On June 26, 2023, approximately six weeks after relocating to her current residence in British Columbia, the appellant requested a moving supplement and explained that she needs \$827.00 to pay a storage facility in Alberta for the storage of her belongings. A note from the storage facility states that failure to pay by July 1, 2023 will result in the appellant's stored assets going up for auction.

The appellant also provided a reservation order for a moving truck rental for June 30 to July 1, 2023 that would cost \$752.00.

The appellant stated that she recently left an abusive relationship and circumstances surrounding this situation have caused significant financial strain and upheaval in her life. The appellant fled her previous community with only two backpacks, one for herself and one for her son. The appellant is trying to prioritize her safety.

The appellant stated that she is unemployed and trying to deal with her mental health; leaving an abusive relationship is emotionally and financially challenging. The appellant is unable to allocate the necessary funds to pay storage fees owing by the July 1, 2023 deadline set by the storage facility and she needs immediate attention and resources. If the appellant is unable to cover the cost of the storage fees, she will have to start "from scratch" and losing these belongings will set her back further.

On June 28, 2023, the appellant contacted the ministry to follow up on her request and to clarify that she needs help with storage facility fees, a truck rental to transport her belongings to her new residence and for gas.

On June 29, 2023, the appellant provided additional information to clarify that she had to leave her previous residence for safety and could not pack her belongings. The appellant confirmed that she has started income assistance in British Columbia and has used her income assistance to pay for rent. She does not have any resources. The appellant restated that the deadline is July 1, 2023 to pay her storage fees and remove her items, or they will be auctioned off, including the family unit's clothing and furniture.

On June 30, 2023, the appellant identified the Alberta community where the storage facility is located and explained that the storage contents include her son's clothing.

On June 30, 2023, the ministry denied the appellant's request because "Moving supplement is not listed for moving into BC and client was able to live here with client's stuff in another province for long time." AND "There is [sic] no implications to health and safety and client was able to live in BC without her belongings saved in the storage unit."

On June 30, 2023, the appellant submitted a request for consideration and clarified that the belongings in the Alberta storage facility include beds, furniture, clothing, and household items. The appellant also explained that the furniture she is using at her current residence was lent to her by her current landlord, and the landlord now requires this furniture to be returned.

If the contents of her storage locker are auctioned off, the appellant and her son will have to sleep on the floor, will be left without proper bedding and have only a limited amount of summer clothing. If the items in storage are auctioned off, the appellant believes that she will be put at considerable risk; she will have significant challenges if she does not have her possessions, and this will severely impact her mental health and overall well-being.

The appellant provided the ministry with an updated invoice from the storage facility for \$1260.00 and an email from this facility advising that it will hold off auctioning the appellant's belongings until the end of July [2023.]

Information provided on appeal and admissibility

The appellant enclosed a written submission dated July 23, 2023 and received August 9, 2023. This submission repeated the appellant's prior argument and provided some new information, including the following:

"When I left my previous residence, I was facing an abusive relationship, which resulted in significant financial strain and emotional upheaval in my life. Additionally, I have been dealing with mental health issues which included a long and challenging journey to overcome opioid addiction ... I am now ten months clean and working hard to improve my life. ... Leaving an abusive relationship while battling mental health issues and substance addiction was an extremely difficult and trying time for me. My focus at that moment was primarily on prioritizing my safety and the well-being of my son, for whom I had recently been granted custody after 12 long years. Due to these circumstances, I had no choice but to leave most of my belongings behind when I moved to my current residence. My mental health and newfound sobriety were my top priorities, and the thought of applying for a moving supplement was unfortunately overshadowed by these pressing concerns."

The appellant provided a second written submission dated August 25, 2021 [sic?] and received August 10, 2023. This submission is from a family practice doctor in British Columbia, and it states in full: "[d]ue to ongoing mental health issues, [the appellant] has difficulties making deadlines."

On August 11, 2023, the ministry provided a written submission that acknowledged receipt of the appellant's August 9 and August 10, 2023 written submissions and noted that it "continues to rely on the ministry reconsideration decision as the ministry's written submission in this matter."

The panel admitted the information in the appellant's written submissions received August 9, 2023 and August 10, 2023, under section 22(4) of the 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 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 storing her belongings in a storage facility, and rental of a moving truck, and gas was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

In its Reconsideration Decision, the ministry stated it is satisfied that the appellant moved from Alberta to British Columbia to flee abuse and therefore were required to move to avoid an imminent threat to the physical safety of the family unit. The ministry also is satisfied that the appellant does not have the resources available to pay for the rental of the storage unit or moving her belongings from Alberta to British Columbia.

In its Reconsideration Decision, the ministry declined the appellant's request for the following two reasons, both relating to the definition of "moving costs" in Section 57(1a and b) in the Regulation.

That is, was the ministry reasonable when determining that the requirements of section 57(1a and b) of the EAA were not met because, the ministry asserted in its reconsideration decision that:

- A moving supplement is provided when moving a family unit *and* the family unit's personal effects from one place to another. Legislation does not permit moving belongings after a move has already been made; the appellant reported living at her current residence since May 15, 2023.
- The ministry only has discretion to approve moving supplements for storage fees under certain circumstances if the ministry is satisfied that the appellant is in the process of moving. The ministry noted that the appellant has been in her current residence since May 15, 2023 and therefore does not meet this requirement.

Panel Decision**Positions of the parties**

Based on the available information, the appellant's position is that she needs a moving supplement because she fled her abusive home situation in Alberta suddenly with only her son and the contents of two backpacks. Because of the appellant's emergency departure, the family unit's other belongings are in a storage facility in Alberta.

The appellant does not have the financial resources to pay the storage bill and move her belongings to her current residence in British Columbia. Also, the appellant's landlord loaned her some furniture and needs it back now. Once this happens, she and her son will be sleeping on the floor. Also, they only have summer clothing with them at their new residence.

The appellant has stated that she was not immediately able to address moving the family unit's belongings from storage to her new residence due to a primary focus on her safety and her son's well-being, as well as the challenges presented by her mental health issues.

These challenges include having difficulty meeting deadlines, as substantiated by a written statement from a British Columbia family practice doctor. The appellant expressed hope that the ministry would make an exception based on her extenuating circumstances.

In its reconsideration decision, the ministry noted that some requirements under section 57 of the Regulation have been met. The ministry is satisfied that the appellant moved from Alberta to British Columbia to flee abuse and therefore was required to move to avoid an imminent threat to the physical safety of the family unit. The ministry also is satisfied that the appellant does not have the resources available to pay for the rental of the storage unit or moving her belongings from Alberta to her new residence in British Columbia.

However, the ministry's position is that not all requirements for a moving supplement under section 57 of the Regulation have been met, specifically, section 57(1a and b) of the Regulation that defines the term "moving costs" as follows: "(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 ..."

The ministry noted that Legislation does not permit moving belongings after a move has already been made and the appellant reported living at her current residence since May 15, 2023. Further, the ministry only has discretion to approve moving supplements for storage fees under certain circumstances if the ministry is satisfied that the appellant is in the process of moving. Because the appellant has been in her current residence since May 15, 2023, she does not meet this requirement.”

The ministry concluded that the appellant has not satisfied all criteria under Section 57 of the Regulation, and accordingly, the ministry has denied the appellant’s request for a moving supplement.

Panel’s Analysis

In its reconsideration decision, the ministry does not dispute that the appellant has met some criteria under Section 57 of the Regulation, including that the appellant moved to flee abuse and therefore, was required to move to avoid an imminent threat to the safety of the family unit. The ministry also is satisfied that the appellant does not have the resources available to pay for the rental of a storage unit or for moving her belongings to her new residence.

In its reconsideration decision, the ministry does not raise the issue of whether it can provide a moving supplement for moving into BC from another province, a reason cited in its original decision.

The panel’s analysis is limited to the reasons given in the ministry’s reconsideration decision.

Accordingly, the issue under consideration by the panel is the ministry’s conclusion in its reconsideration decision that the legislation does not permit moving belongings after a physical move has already been made and that the ministry only has discretion to approve moving supplements for storage fees under certain circumstances if the ministry is satisfied that the appellant is in the process of moving.

Because the appellant has been in her current residence since May 15, 2023, the ministry concluded that she does not meet this requirement.

Relevant Legislation

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

Section 57 of the Regulation describes the requirements for eligibility for a moving supplement and the nature of available moving supplements. Section 57(1) a. of the Regulation defines “moving cost” as the cost of 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;

The panel notes that the ministry has interpreted the legislation such that eligibility for a moving supplement requires both the moving of a family unit and the moving of a family unit’s personal effects concurrently, and that it cannot approve a moving supplement for a situation where stored items are moved to a new residence at a later date.

The panel disagrees with this interpretation. In plain and practical terms, it is reasonable to interpret that a move is *fully* completed *after* a family unit has physically relocated *and* has received all their belongings, within a reasonable time period. It is not uncommon for people relocating from one community to another to store items temporarily either in their previous community or new community, depending on the circumstances. Section 57 of the Regulation does not address this practical reality.

The appellant made her initial request for a moving supplement approximately six weeks after moving to her current residence. Considering the emergency circumstances of her family unit’s departure from Alberta, six weeks is, in the opinion of the panel, within a reasonable time period to launch an action to retrieve her belongings from the storage facility in Alberta. People should not be considered fully “moved” until all their belongings have been received at their new residence, within a reasonable time period. Section 57 of the Regulation does not address this practical reality.

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 storage of her belongings, rental of a moving truck and gas costs for transporting these belongings to her current residences, was not a reasonable application of the legislation in the appellant's circumstances.

The panel has rescinded the reconsideration decision. The appellant is successful on appeal.

Relevant Legislation

EMPLOYMENT AND ASSISTANCE REGULATION

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 fulfill

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.

[am. B.C. Reg. 275/2004, s. 1.]

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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

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

Melissa McLean

Signature of Chair

Date (Year/Month/Day)

2023/08/24

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2023/08/25

Print Name

Richard Franklin

Signature of Member

Date (Year/Month/Day)

2023/08/28