

Part C - Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated December 15, 2023, which held that the appellant is not eligible to receive a supplement to pay for moving costs. The ministry was satisfied that the appellant's moving costs are the least expensive, most appropriate costs. However, the ministry found that:

- The appellant's move was not for any of the circumstances listed in section 55(2).
- The appellant did not receive the ministry's approval prior to paying for her moving costs, or, alternatively, there were no exceptional circumstances that prevented the appellant from requesting the ministry's prior approval.
- The ministry is not satisfied that it is necessary to continue to preserve her personal effects.

Part D - Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation section 55

This section of the legislation can be found at the end of the decision.

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

From the ministry file:

- The appellant is a sole recipient of disability assistance.
- On March 3, 2023, the ministry provided her with a supplement to pay for moving costs to move her personal effects into a storage facility in community A along with one month of storage fees because she had been evicted from her residence and had three days to move but could not find any accommodation.
- On April 19, 2023, the appellant moved to a residence in community B. Her rent was \$1000, and storage was \$50.
- On August 4, 2023, she moved from community B to a residence in community C where she rented an RV pad as she advised the ministry she had purchased an RV to live in. That same day, the ministry noted the appellant requested assistance to pay her storage fees.
- On September 8, 2023 she advised the ministry she moved from community C to her current residence in community D where she pays a pad rent for her RV. Her pad rent was \$800, the same as in community C.
- That same day, the ministry reviewed her request to pay for storage fees and noted they needed additional information from her regarding why her personal effects were still in storage.
- On September 26, 2023, the ministry noted they asked her through the ministry computer portal, My Self Serve, how much she had owed on her storage unit and what was her plan going forward for October 2023. Would she be selling off some of her personal effects if they did not fit in her home. She advised that she had rented a different storage unit and a truck to move items because it was cheaper than the storage in community A and closer to where she lives and better access to deal with downsizing. Her plan for October was to try and sell some items, donate, and throw away items. She submitted a receipt from a car rental company indicating she had rented a cube van for pick up on September 23, 2023, and return September 25, 2023, in the amount of \$548.19.
- On October 11, 2023, the ministry advised the appellant that her request for a supplement to pay for moving costs was denied because she did not receive the ministry's prior approval before she moved her personal effects with the cube van to the storage facility in community D and the ministry does not pay for storage when storage is ongoing.

In her Request for Reconsideration dated November 12, 2023 the appellant wrote that:

- She is removing the expenses for storage facilities in community A and another community from her claim – they should not have been included in her application and were just examples of cost savings.
- She is adding expenses to her claim that were not included in her original submission, for example gas receipts and food receipts.
- She moved to community D for financial reasons such as the increased economy and availability of housing.
- She had tried to get approval prior to the move but had to move before approval. She was able to get a truck driver and helpers before the end of the month to prevent more charges.
- She needed to vacate the storage facility that was expensive and not very accessible to a closer, more convenient and less expensive storage facility.

In addition, the appellant submitted:

- an agreement for a truck rental from September 23 – 25, 2023; and
- receipts for gas, BC Ferries, a restaurant, a thrift store, and for storage facilities in community A, community D, and another community; and
- 2 incomplete forms, filled out by the appellant as follows:
 - Her pad rental in community C is \$800 (utilities not included)
 - Her pad rental in community D is \$800 (utilities included)

Additional Evidence:

No additional evidence was submitted with the Notice of Appeal.

At the hearing the appellant reported that:

- She stayed in community B only a short time before moving because of the cost of living, people being unfriendly, and lack of a support network.
- She moved to community C on August 4, 2023.
- She arrived on August 4, where she stayed for 10 days.
- On the 10th day she had been asked to move her RV so the pad behind it could be accessed. She did so. On the same day she drove to a doctor’s appointment in community A, and when she returned at 11 o’clock at night she found the entrance to her RV site blocked and the office closed. She was no longer allowed access to her pad. She decided to leave community C.
- Between August 15 and September 8, 2023, she was “floating here and there”. She is usually not that unstable.
- She spent 3 days on the roadside in community C. People there were unfriendly, and her safety was in jeopardy because of a heatwave.

- Then she drove on, looking for another RV pad, because she had nowhere to go with her RV. She thought she had a pad at another community but the lady had given away her spot and it was no longer available.
- After 10 days on the road, she finally found her current RV pad on September 8.
- All her belongings had remained in community A but the storage there was very expensive - it is cheaper in community D.
- She tried to but was not able to talk to the ministry before she moved her belongings with the moving truck. Also, WIFI was not good in her area. She talked to the ministry immediately after the move. She had talked to many different ministry workers, but they must have “muddled” the information. She may not always communicate well because she has a disability that includes anxiety and issues with communication.
- She had to put many items into storage because she left a 3-bedroom house and moved into an RV. Currently, she has 1 storage unit in community D. She started her storage in community D on September 23, 2023. She had another storage unit temporarily in a different community which she was not able to keep.
- She got rid of some of her possessions that were originally in her storage, and she is still downsizing but wants to keep items of sentimental value like children’s memorabilia. She will need to keep her storage locker in community D until she finds a bigger home or a bigger RV.
- In spring she wants to work again in community D. She had a casual job there before, which was not “confirmed work”.
- Her move to community D resulted in a significant reduction of her expenses.
- She purchased the RV as a temporary solution.

The ministry stated that:

- The appellant moved 3 times: from community A to community B, then from community B to community C, and finally from community C to community D.
- A moving supplement is meant for a 1-time move, not for an ongoing change of location.
- From September 8 to September 23 the appellant had time to request the ministry’s approval to fund her moving expenses.
- To a question from a panel member whether the ministry could provide the panel with case notes regarding what happened in community C, the ministry responded that they are not sure if she should provide these notes because they would reflect poorly on the appellant. The ministry addressed the panel chair and asked whether the chair requested the ministry to provide the case notes. The chair responded in the negative.

Admissibility of New Information

The ministry did not submit any new evidence in response to the appeal and did not object to the new evidence provided by the appellant.

The panel finds that the information provided by the appellant at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, as it contributes to the panel's understanding of the circumstances surrounding the appellant's request for a moving supplement. The panel therefore admits this information as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision that the appellant is not eligible for a moving supplement was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. That is, was the ministry reasonable when it determined that:

- the appellant did not receive the ministry's approval prior to paying for her moving costs, or alternatively, there were no exceptional circumstances that prevented the appellant from requesting the ministry's prior approval;
- the appellant's move was not for any of the circumstances listed in section 55(2); and
- that it is not necessary to continue to preserve the appellant's personal effects as set out in section 55(1)(b).

Section 55 defines "moving costs" as the costs of moving a family unit and the family unit's personal effects from one place to another, and storing the family unit's personal effects during the move if storing it is necessary to preserve them. The ministry's approval must be received before moving costs are incurred under subsection (3) of the same section. In exceptional circumstances, a supplement may be provided without the ministry's prior approval.

To be granted the supplement for living, moving and or transportation cost under the Regulation, the move must be for one of the following reasons:

- Confirmed employment would significantly promote financial independence.
- A move to another province or country would improve the appellant's living circumstances.
- A move anywhere in BC because the appellant is compelled to vacate her residential accommodation.
- A move anywhere in BC because shelter costs will be significantly reduced because of the move.
- A move anywhere in BC to avoid an imminent threat to the family unit's physical safety.

Appellant's Position

The appellant's position is that she should be eligible for a moving supplement because she had tried to get approval prior to her move but had to move before approval to avoid additional costs. She was compelled to move from her residence in community C because she had been locked out. Her safety was compromised due to the heatwave and the

unfriendly people around her. Shelter costs in community D are significantly cheaper than in communities A or B. She needed to move her belongings from an expensive and inconvenient storage facility to a more convenient and less expensive one. She moved to community D because of increased affordability and availability of housing. Now that she has moved to community D, she no longer claims storage expenses from her previous locations. However, she is requesting reimbursement for all her moving expenses to community D, including truck rental, gas, food, ferry costs, a paid helper, and storage in community D. She is still in the process of moving and needs to keep this storage locker until she finds a bigger home or a bigger RV.

Ministry's Position

The ministry determined that the appellant's request for a supplement to pay for moving costs was not for confirmed employment, it was not because she was compelled to vacate her RV pad in community C, it did not result in a significant reduction to her shelter costs, and it was not to avoid an imminent threat to her physical safety. The ministry was not satisfied that the appellant's reason for not requesting the ministry's prior approval for moving costs was because exceptional circumstances existed. The appellant had an opportunity to discuss her plans prior to booking a van with the car rental company and moving her personal effects. As the appellant continues to reside in an RV, and explains her plan is to downsize and sell her personal effects, the ministry is not satisfied that it is necessary to continue to preserve her personal effects.

Panel Decision

The panel finds that the ministry reasonably determined that the appellant does not meet all of the necessary eligibility requirements to be eligible for a moving supplement.

What was "The Move"

There is dispute between the ministry and the appellant as to whether the appellant is still in the process of moving to a permanent place of residence (one move over a lengthy period of time) or whether she has moved multiple times (each change of location being considered a separate move).

The majority of the panel finds that there has only been one move, from location A to location D. Section 55(1) Moving Costs provides for moving a person's property while the person is moving. In the opinion of the majority, there has only been one move, from location A to location D. In the interim, the appellant has been transient, sometimes

finding possible locations and other times having no fixed address. It was not until finding a spot in location D that where the appellant felt permanent enough to have her personal goods moved close to her, thus enabling the initial move to be completed. For the purpose of the move from community A, community D should be considered the final destination.

The majority of the panel bases their finding on the following interpretation of the evidence: On March 3, 2023, the appellant was forced to move from her home in community A. She moved temporarily to community B but, after a short period, left there and was transient. On August 4, 2023, the day she took residence in community C, the appellant requested a moving supplement to assist with the cost of storage. In her request for reconsideration, the appellant adjusted her request, deleting the cost of storage and, instead, asking for reimbursement of moving expenses to accommodate the move of her stored possessions from community A to a storage unit in community D. The amended request is the issue in this appeal. The ministry denied the request on October 11, 2023, which is a month after the appellant had completed her move to community D. While the ministry's reconsideration decision (December 15, 2023) focuses on the circumstances of the appellant's final move, the majority of the panel finds it must include circumstances of the interim moves because the moving supplement that is at issue here was originally requested for the first move and has remained unresolved until after the appellant completed her final move and until the issue came before the Appeal Tribunal.

The minority of the panel finds that, for the purpose of this appeal, there are two separate moves to be considered. The first move took place on August 4, 2023, when the appellant moved from community B to community C. The second move took place when the appellant left community C (according to the appellant, she left community C on August 14, "floating here and there" for a while), and eventually moved to community D on September 8, 2023.

The minority panel's interpretation of the evidence, while in part like the majority's, differs significantly from the majority's: On August 4, 2023, the day of the appellant's first move, the appellant requested a moving supplement that is at issue in this appeal. The ministry denied the request on October 11, 2023, a month after the appellant had completed her second move. In her request for reconsideration the appellant adjusted her request for reimbursement of moving expenses to accommodate her second move. While the ministry's reconsideration decision (December 15, 2023) focuses on the circumstances of the appellant's second move, the panel finds it must include circumstances of both moves because the moving supplement that is at issue here was originally requested for the first move and has remained unresolved until after the appellant completed her second move to community D, and until the issue came before the Appeal Tribunal. The minority panel

notes that the appellant's move from community A to community B is not at issue here. For this earlier move the ministry had provided a separate moving supplement.

Pre-Approval Requirement

While the appellant argues that she tried but was not successful in her attempts to contact the ministry prior to her move, the panel finds there is not enough evidence that exceptional circumstances prevented her from requesting the ministry's prior approval. She moved on September 8, 2023, and rented the moving truck for September 23, 2023. The panel finds the time between September 8 and 23, 2023 was sufficient for the appellant to request and obtain prior approval from the ministry.

Moving for Valid Reasons Requirement

The panel finds the ministry was not reasonable in their determination that the appellant's move was not for one of the reasons set out in section 55(2). The panel finds there is sufficient evidence that she was compelled to vacate her RV pad prior to her move to community D. The panel minority finds that there is also sufficient evidence that the appellant was compelled to vacate her RV pad prior to her move to community C (she had been evicted).

The panel majority finds that, regardless of the interim moves, the relocation of the personal property is a finalization of the move initiated when the appellant left community A.

The panel notes that there is insufficient evidence that the appellant's shelter costs were significantly reduced as a result of her moves; there is no evidence of how much she paid for shelter in community B prior to her move to community C, and while she indicated that rent for her RV pad in community C was \$800 without utilities and is now \$800 including utilities in community D, this is not confirmed by rental agreements. While the appellant argues that her safety was in jeopardy because of a heatwave and the unfriendly atmosphere, the panel finds there is insufficient evidence that she had to move to avoid an imminent threat to her physical safety.

Necessity to Continue to Preserve the Appellant's Personal Effects (section 55(1)(b))

The majority of the panel finds that the ministry's statement that "it is not necessary to continue to preserve the appellant's personal affects" is unreasonable. The legislation does not require a reason for storing personal effects, only that storage is required to preserve them, even if they are sentimental items or items that will later be downsized.

The legislation also does not limit storage while moving to one month. Because the move was ongoing, storage was required to preserve the appellant's personal effects until the move was complete. Because the cost of storage is not under appeal, the majority of the panel has not made a determination on what a reasonable time would be for storage, but one month is found to be unreasonably short.

The minority of the panel finds that, while the appellant wishes to keep items of sentimental value in storage, the ministry reasonably determined that ongoing storage expenses are not covered by a moving supplement once the move is complete. The appellant has been at her current residence for over 5 months (since September 8, 2023) which indicates that the move that started on September 8, 2023 is now completed. While the appellant currently considers herself still to be in the process of moving, she has not provided any details of when or to which address she is planning to move from her current residence.

While the panel is split on how many of the required eligibility criteria are met, the panel finds that the ministry reasonably determined that the appellant did not meet all of them. While the panel finds that the appellant meets the Moving for Valid Reasons Requirement, and while the panel majority finds that the appellant meets the Necessity to Preserve the Appellant's Personal Effects requirement, the panel unanimously finds that the appellant does not meet the Pre-approval Requirement.

Conclusion:

The panel finds that the ministry's decision to deny the appellant a moving supplement was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The ministry's reconsideration decision is confirmed and the appellant is not successful on appeal.

Employment and Assistance for Persons with Disabilities Regulation

Supplements for moving, transportation and living costs

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) and Section 24(1)(b)

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

Part H - Signatures

Print Name

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2024/02/21

Print Name

Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)

2024/02/21

Print Name

Wesley Nelson

Signature of Member

Date (Year/Month/Day)

2024/02/21