

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (the “Ministry”) reconsideration decision dated October 17, 2023 (the “Reconsideration”). The Ministry found that per Section 55 of the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”) the Appellant was not eligible for a moving supplement to pay for a move that occurred in October and November 2021. The Ministry was satisfied that the move was required, and that the Appellant did not have resources available to cover the costs. However, the Ministry found that the Appellant was not eligible for the supplement because he did not receive prior approval from the Ministry before taking on moving costs, and the Ministry was not satisfied that exceptional circumstances existed that prevented the Appellant from receiving prior approval.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation, Section 55

The full wording of this legislation is set out in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

The information before the Ministry at the time of the Reconsideration included:

- On July 1, 2023 the Appellant submitted a copy of a Residential Tenancy Agreement to confirm he had moved and submitted a request for assistance with moving costs;
 - The Residential Tenancy Agreement signed May 13, 2023, which noted a start date of July 1, 2022 for the rental;
 - The request for moving costs was submitted on a crisis shelter form; however, the Appellant noted he was requesting moving funds due to a lack of funds, and the danger to health was family issues that put the Appellant at risk;
- On July 11, 2023 the Ministry sent the Appellant a message through MySS to clarify the request;
- On July 17, 2023 the Appellant noted that he was requesting \$2269.55 for the cost of two truck rentals and fuel and would be submitting receipts; his family sold the house and he had borrowed the money for the move and to keep him safe;
 - The Appellant included \$1325.26 in receipts for the two truck rentals:
 - \$768.25 for a truck rental charge for November 1-6, 2021
 - \$556.91 for a truck rental charge for October 12-16, 2021
 - The Appellant noted \$944 for fuel for the U-Hauls and included \$201 in fuel receipts dated November 1, 2021;
- On August 17, 2023 the Appellant requested the Ministry reimburse him for moving costs; the Appellant had already completed the move and did not know the Ministry could help with moving costs. The Appellant said he had to move from his parent's house, the house had been sold, he had been evicted without notice, and the Appellant had to move quickly as he was being threatened and his family had threatened to throw out his belongings;
- On August 17, 2023 a worker noted on file that the request was denied, noting recipients must receive prior approval from the Ministry before incurring costs for a move and that insufficient information had been supplied for the request;
- On August 30, 2023, the Appellant was told that the request was denied; the Ministry found him ineligible as it was determined resources were available to cover the costs and because the Appellant did not receive the Minister's prior approval before incurring these costs;
- On September 28, 2023, the Appellant's Request for Reconsideration noted:
 - The Appellant had issues opening forms and filling them out, staff were aware, and he was requesting additional time;
 - The Ministry worker said there was no provision for an extension of time; there was no supervisor to speak with or to overrule the worker, and ultimately the worker hung up on him;

- The Appellant had previously put in numerous service requests that went unanswered and it was not uncommon for him to get Ministry workers who are not helpful or even pleasant;
- The Appellant had not been informed of the denial on the date it was claimed it had been given to him;
- In reference to the legislation, the Appellant does not have the means to absorb the moving costs; without warning, his family sold the family home out from under him, threatened to throw out his possessions, and started to threaten his safety and he had to seek protection from the courts;
- The Appellant is disabled and was overwhelmed by the events;
- The Appellant does not have a vehicle or licensing so travel is extremely difficult; a friend stepped up to loan funds and to help with truck rentals and with the move;
- The friend needs the money returned;
- The Appellant provided the Ministry with the summary of expenses and receipts he had;
- The Appellant's circumstances are exceptional for many reasons and are due to:
 - The behaviour and treatment from his family;
 - A fear of dealing with the Ministry;
 - His debilitating and very real disabilities;
 - The Ministry's poor dealing with him and their actions and attitudes that exacerbate issues and lead to defeat, frustration, and fear; and
 - Battles with the Ministry that worsen the position of a vulnerable and at-risk person.

The Appellant's Request for Reconsideration also included an affidavit from his friend signed September 25, 2023 and indicates:

- The friend swears that the Appellant was living in the basement of his family home; the family sold the house without any notice to him; and he was forced to find immediate shelter and storage for his possessions;
- The friend also swears that the Appellant is disabled and can't drive, and he was forced to relocate and care for himself without support from family that he had relied on for the past decade;
- The friend swears that they agreed to loan the Appellant the funds and to assist him with moving in the most economical way possible by renting a truck and driving him to where he could have help from his children;
- The friend swears they have suffered a debilitating fall that has resulted in major head trauma and must have the money repaid at this point and has supplied

receipts [of costs] incurred, and that there were additional costs of hotels and meals that will be supplied also; and

- The friend swears the moving costs total roughly \$2400 with additional lodging, meals, and sundry costs, roughly an additional \$500.

Additional Information submitted after Reconsideration

In his Notice of Appeal, the Appellant said his reasons for appeal include:

- He supplied evidence that demonstrates compliance with the legislation;
- The statements made in the [Ministry] decision show the information was not read, not read properly, or not processed;
- The deadlines and [Ministry] promises made were not kept;
- [The experience] has been very frustrating, hurtful, and adding greatly to his stress; and
- All of this is added to the fact that he is a person with disabilities.

The Appellant provided two additional submissions prior to the hearing. The Panel received and reviewed the documents as additional evidence, which are summarized as follows:

Submission One—31 pages:

- Credit Card statement pages:
 - September 16, 2021 to October 11, 2021 credit card statement from another friend (the “second friend”) with items marked in red including flight charges noted of \$350.52 and courier charge of \$93.40,
 - October 15, 2021 to November 9, 2021 credit card statement from the second friend with items marked in red including hotel charge of \$72.10 and U-Haul charge of \$78.43,
 - November 20, 2021 to December 6, 2021 credit card statement from the second friend with courier charge of \$119.99 marked in red;
- October 9, 2021 to November 23, 2021 bank statements from the Appellant’s friend with items circled in red and totalling \$758.23;
- October 11, 2021 to October 28, 2021 bank statements from the Appellant’s friend with items noted in red as gas and totalling \$421.00;
- November 1, 2021 gas receipts totalling \$201.00 (2 copies of \$51 receipt + 2 copies of \$150 receipt);
- November 5, 2021 two gas receipts totalling \$416.03;

- November 8, 2021 Email (2 copies) from U-Haul to the Appellant's friend with itemized bill(s);
- Itemized U-Haul bills showing:
 - September 5, 2020 15' Truck rental in the Appellant's name with total truck rental charges and full payment noted of \$89.60,
 - September 29, 2021 26' Truck and Towing Reservation from out of province with subtotal amount of \$420.62;
 - October 12, 2021 Van rental in the Appellant's name with total van rental charges and full payment noted of \$556.91 (2 copies of same bill);
 - November 8, 2021 15' Truck rental in the friend's name with total truck rental charges of \$768.25, payments of \$226.08, and amount owing noted of \$542.17 (7 copies of same bill),
 - 1 copy contained written note stating, "Two truck rentals to date. \$768.25 + \$556.91= Total \$1325.26" (sic) [actual total = \$1325.16];
- November 9, 2021 two gas receipts totalling \$150.81;
- November 19, 2021 Email from U-Haul to the Appellant's friend noting payment had been declined and including itemized bills showing an unpaid amount of \$542.17;
- November 28, 2021 Email message to the Appellant with handwritten notes:
 - Gas re: Move
 - \$51
 - \$150
 - \$153
 - U-Haul
 - \$263
 - \$110
 - \$40
 - \$766
 - Red
 - \$90
 - \$88
 - \$178

TOTAL \$944.00 (sic)
[Actual Total = \$1889.00];
- June 28, 2022 Email from a collection agency to the Appellant's friend noting an immediate payment of \$572.17 was required.

Submission Two—47 pages:

- Two-page typed document titled “Timeline” with summary:
 - October 15-November 15, 2021—move occurred;
 - Family forced him to move without notice and family was threatening and harassing him;
 - He was abused and abandoned by his family and treated in a cruel manner;
 - He was under duress and required to act, and per the legislation he should be reimbursed;
 - Received court orders to protect his possessions and to be given time to move;
 - Travel limited during this time due to flooding, pandemic, and other issues;
 - Although he had use of a vehicle, the vehicle was not insured or registered in his name;
 - Was unable to complete his move at the time and he lost many of his possessions;
 - He is disabled and at the mercy of others and their plans;
 - His friend helped pay for his move and needs the funds repaid;
 - His friend loaning him money does not mean he has means;
 - He paid \$600 + \$1830; and
 - Life has been unbearable and a logistical nightmare.
- 13 pages from the Mayo Clinic titled “Depression (major depressive disorder)”;
- August 24, 2023 CRA “Disability Tax Credit—Notice of Determination”; and
- 23 pages from the Mayo Clinic titled “Drug addiction (substance use disorder)”.

Admissibility of Additional Evidence

The Ministry did not object to the additional documents provided by the Appellant.

The Panel accepted all the additional documents provided by the Appellant in support of his appeal and determined them to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the Employment and Assistance Act.

The Hearing

The original hearing was adjourned four times and rescheduled accordingly. The hearing occurred on April 2, 2024 and was conducted by teleconference.

The Appellant and the Ministry were not in attendance at the hearing.

In determining whether to proceed with the hearing, the Panel considered the following information:

- The Appellant submitted his Notice of Appeal on October 23, 2023;
- The appeal had been adjourned at the appellant's request on four previous occasions;
- The Appellant submitted more than 100 pages of information in support of his appeal;
- 90 minutes prior to the hearing, the Appellant's friend wrote on behalf of the Appellant and requested that the hearing be adjourned to the following week; but
- The Tribunal does not have the Appellant's written permission for the friend to communicate or make decisions on his behalf as there is no completed Release of Information on file.

Given the above and after waiting for 15 minutes and confirming that the Appellant and the Ministry had been notified of the hearing, in accordance with section 86 (b) of the Employment and Assistance Regulation, the Panel unanimously determined to continue with the hearing.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's reconsideration decision, which determined that per the Regulation, the Appellant was not eligible for a \$2269.55 moving supplement to pay for a move that occurred in October and November 2021, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Relevant sections of the legislation are set out after the reasons of the Panel.

Position of the Appellant

The Appellant argues that he met the requirements of the legislation and should be provided the supplement to pay for his moving costs. As a person with disabilities, allowances should be made for him and his needs. The Ministry's denial of funds not only violates his Human Rights but has also been very frustrating, hurtful, and adds greatly to his stress. As a result, the Appellant says, "Life has been unbearable...".

The Appellant also says that at the time he was required to move, he was not aware that the Ministry provided funding for moves. The Appellant was under duress after his family home was sold, his family were threatening and cruel and abusive to him, and he had to get a court order to protect himself and his possessions. Despite his efforts, he was not able to move everything within the time he had, and he ended up losing many of his things. The Appellant says that the legislation requires the Ministry to reimburse his moving costs after the fact and despite him not getting prior approval. He says this is because of the sudden need for the move and the trauma, upset, and suffering that occurred which originally led to the move.

The Appellant says the receipts and statements he has provided clearly demonstrates his moving costs and show that he was unable to cover the costs himself. Due to not having an available vehicle or license, he was required to rely on his friend(s) to help him with truck rental(s) and/or to support him by storing his things. The associated costs were more than he could cover but were the most economical way for him to move. Although his friend had loaned him the money to help pay the moving costs, the Ministry was wrong in deciding that this meant he had the means for the move. In addition, due to the friend's circumstances, they now required the loan to be repaid. Finally, the Appellant says that there were exceptional circumstances which prevented him from getting prior approval. Along with feeling "underseige" (sic) after his family threatened him and evicted him, the Appellant says several events including flooding, a provincial state of emergency, and the

pandemic created issues that prevented him from getting prior approval for his move. The Appellant also says his circumstances are exceptional due to:

- The behaviour and treatment from his family;
- A fear of dealing with the Ministry;
- His debilitating and very real disabilities;
- The friend's own injury and need to now be repaid;
- The Ministry's poor dealing with him and their actions and attitudes that exacerbate issues and lead to defeat, frustration, and fear; and
- Battles with the Ministry that worsen the position of a vulnerable and at-risk person.

Finally, the Appellant says that the principles of accommodation and equal justice require the Ministry to make allowances for him including providing him with the requested funds.

Position of the Ministry

As the Ministry did not attend in person, the Panel relied on the written reasons provided in the Ministry's Reconsideration decision. The Ministry determined the Appellant's request for \$2269.55 for a moving supplement does not meet the eligibility criteria set out in Section 55 of the Regulation. Although the Ministry recognized the need for the move and that the Appellant did not have resources available to cover the cost of the move at the time, they found that the Appellant was not eligible for the supplement because he did not receive prior approval from the Ministry before incurring the moving costs. Further, the Ministry was not satisfied that exceptional circumstances existed that prevented the Appellant from seeking prior approval.

The Ministry noted that the move occurred in October and November 2021 while the Appellant received disability assistance and was required to report address changes. However, the Appellant did not report the change of address at the time of the move and did not contact the Ministry at that time to request assistance with moving costs. Further, the Ministry questions the urgency and need for the crisis supplement because before, during and in the months following the move, the Appellant did not request a crisis supplement to assist with any of the moving and related costs. The Ministry says it was reasonable that if the Appellant had required assistance with his 2021 moving costs, he would have contacted the Ministry at the time of the move or shortly after to request assistance.

The Ministry says that the fact that the Appellant's friend is now requesting that he repay the two-year-old debt is not sufficient to establish that exceptional circumstances existed

which prevented him from obtaining the required prior approval before incurring those costs. The Ministry also says that the Appellant should have been making reasonable efforts to repay the loan to his friend. Finally, although the Ministry recognizes the fuel and U-Haul receipts provided, they are unable to consider the added fuel amounts and extra costs as they were not part of the Appellant's original request.

Analysis

The Panel recognizes the Appellant's submissions regarding his view that the Panel must consider several legal precedents. He said that Human Rights must be considered and those principles are to be applied by the Panel when making their determination. The Panel notes that consistent with s.19.1 of the *Employment Assistance Act* and s. 46.3 of the *Administrative Tribunals Act*, the Panel does not have decision making authority to apply the *Human Rights Code*. As well, the Appellant said the Panel must be guided by *Pintea v Johns*, 2017 SCC 23, [2017] 1 S.C.R. 470, a civil court proceeding regarding the rights of, and obligations owed self-represented litigants. The Panel highlights that the Tribunal hearing process is not a civil court proceeding and is not subject to the same common law rules; unlike *Pintea*, the Panel does not make contempt rulings or similar against Appellants/self-represented litigants. The Tribunal is an independent quasi-judicial agency established to determine appeals of Ministry decisions, and to provide an independent and accessible appeal process that delivers timely and fair decisions reviewing Ministry of Social Development and Poverty Reduction determinations.

The Regulation says that a supplement may be provided to a recipient of disability assistance for moving costs if the recipient has no available resources and the recipient receives the minister's approval before incurring those costs. A supplement may be provided if the recipient did not receive the minister's approval before incurring the costs if the minister is satisfied that exceptional circumstances exist.

In the Appellant's case, the Ministry found he had no available resources. However, the Ministry said the recipient did not receive prior approval for the costs; the Appellant did not dispute this.

The Ministry was also not satisfied that the Appellant had exceptional circumstances that prevented him from getting the required prior approval. As he did not receive prior approval or demonstrate exceptional circumstances for failing to get prior approval, the Ministry did not provide the supplement to cover the Appellant's moving costs.

Whether Exceptional Circumstances Existed That Prevented Prior Approval Being Obtained

The Appellant argues that his disability, the stress of the situation including fear of dealing with the Ministry, the mistreatment from his family, being under duress, and his being fully overwhelmed explain the delays with his moving cost request(s) demonstrates exceptional circumstances that prevented him from seeking prior approval. The Appellant says because of the suddenness of his need to move and being required to move quickly, he was unable to make the request for moving costs in advance or to make the request in a timely fashion. He was dealing with threats from his family, he was focused on protecting himself and he wasn't thinking of things like his moving costs and getting them repaid from the Ministry.

The Panel finds that the Ministry was reasonable in deciding that the Appellant had not demonstrated there were exceptional circumstances that prevented him from seeking prior approval. Although the Appellant indicates things happened too quickly for him to think ahead about his moving costs or for him to seek approval in advance from the Ministry, his evidence shows advance thought and planning regarding his move. For example, flight and rental receipts indicate that he sought the assistance of and coordinated arrangements with out-of-town friend(s) to help him rent vehicles and to move on two separate dates approximately one month apart. It is reasonable to expect that even in his time-sensitive and pressured situation, if he was able to make the more complex moving arrangements over multiple dates and locations, he could have taken the time to connect with the Ministry and make his request for funds in advance of his move.

Similarly, the Panel finds that the Ministry was reasonable in deciding that exceptional circumstances did not justify the Appellant's lengthy delay in requesting moving costs almost two years after the move occurred. In August 2023, the Appellant made his request for the supplement to cover his October-November **2021** move. The Appellant says that the extreme circumstances and distress prevented him from asking sooner; the entire situation and events surrounding the move were exceptional and prevented him from acting any earlier. The Appellant also says that getting his moving costs repaid were not on his mind at the time he moved in 2021. He only turned his thoughts to receiving funds in 2023. It was just at that time that he became aware his expenses could be covered.

Indeed, the upheaval and distressing situation of any move may account for a limited ability to seek prior approval from the Ministry or may explain the exceptional circumstances where a request is delayed in the immediate days and weeks after the move, but not for almost two years. Further, the Appellant's own evidence shows that on November 28, 2021 he specifically recorded a note of his moving expenses, which he later

submitted with his 2023 expenses claim. The advance record made by the Appellant almost two years prior to his request for funds is not consistent with his assertion that moving costs were not on his mind at the time of his move due to exceptional circumstances.

Additionally, the Appellant has stated that the reason he did not ask for funding from the Ministry was because he was unaware that funding for moving was available until August 2023. The panel finds that this evidence does not show that the two-year delay and request for a retroactive payment after the move was due to exceptional circumstances.

As such, the Panel finds that the Ministry was reasonable in deciding that the Appellant had not demonstrated there were exceptional circumstances that prevented him from seeking approval prior to his move or nearer to the time of his move in October-November 2021.

Conclusion

The Regulation is clear that there must be prior approval for moving costs except when there are exceptional circumstances. The Appellant did not seek prior approval for his move. The Panel finds that the Ministry was reasonable in deciding that the Appellant had not demonstrated there were exceptional circumstances that prevented him from seeking prior approval. The Panel confirms the Ministry's decision. This means the Appellant is not successful with his appeal.

Relevant Legislation

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 fulfill

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
Carmen Pickering

Signature of Chair

Date (Year/Month/Day)
2024/04/15

Print Name
Robert Kelly

Signature of Member

Date (Year/Month/Day)
2024/04/15

Print Name
Linda Pierre

Signature of Member

Date (Year/Month/Day)
2024/04/15