

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision (the “Decision”) dated February 7, 2024, which denied the Appellant a supplement for moving.

The Ministry determined that the Appellant did not meet the eligibility criteria set out in the Employment and Assistance for Persons with Disabilities Regulation section 55. Specifically, the Ministry found that the Appellant’s moving expenses were not the least expensive appropriate moving costs.

### **Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation section 55 (the “Regulation”)

Text of this regulation is attached at the end of the decision

**Part E – Summary of Facts**

An in person hearing took place on February 27, 2024.

The Ministry representative attended by telephone. The Appellant was not in attendance at the hearing. The panel confirmed that notices of the hearing were provided to the Appellant's email and there was a confirmation of delivery. The hearing was delayed while the Appellant was contacted by telephone. When advised of the scheduled hearing, the Appellant advised Tribunal staff that the hearing could proceed in his absence.

After a 15 minute delay, the panel determined that the hearing would proceed without the Appellant as permitted by section 86(b) of the Employment and Assistance Regulation.

Evidence before the Ministry at Reconsideration

Ministry records indicate the Appellant is a recipient of disability assistance.

The Appellant applied for a moving supplement on January 2, 2024. The heater and the electrical power were not working in his second floor unit. The weather was getting colder and there was a risk of hospitalization. The building manager found a unit on the fourth floor of the same building and he could move into it that day.

The Ministry contacted the building manager by email on January 5, 2024 and was advised that the Appellant had moved between the two units, and that staff and fellow residents had assisted with the move.

The Appellant called the Ministry on January 9, 2024, stating that staff did not help him with his move.

The Ministry denied the request for the supplement on January 9, 2024, stating that the moving costs claimed by the Appellant were not the least expensive appropriate moving costs:

- 1) No moving quotes were submitted and prior approval was not obtained;
- 2) Boxes, dollies and tape are not allowable expenses; and
- 3) The Building Manager had stated there was no moving expenses related to the move.

The Appellant submitted a letter dated January 23, 2024, noting that there was "no time for a regular 3 quote move request", and that in "special / exceptional moving circumstances moving expenses can indeed be reimbursed".

On January 29, 2024, the Appellant requested a reconsideration of his denial, stating that the lack of electricity and heat presented a "imminent threat to my health/well-being", that there was "no time to submit 3 quotes for move", and that the building manager "indicated that staff could assist, but were not available after 4:30pm on that day".

#### Evidence received after the Decision

The Appellant submitted a Notice of Appeal on February 8, 2024, stating that the Appellant had discussed his situation with the Building Manager who the Appellant said had confirmed his version of events as being accurate. He also stated that exceptional circumstances existed in his situation "without doubt".

On February 12, 2024, the Appellant submitted a receipt dated February 9, 2024 for moving "furniture and household items on a cold winter evening" which also noted "no elevator" and "building staff were absent". There was an acknowledgement of receipt of "\$400 cash for my labour", and the name, signature and phone number of the mover.

#### Admissibility of New Evidence

The Ministry did not object to the additional evidence being admitted. The panel determined that the additional information provided by the Appellant supported his argument and found that it would admit the new information as evidence pursuant to 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 was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Specifically, did the Ministry reasonably determine that the Appellant was not eligible for a crisis supplement for moving because the quote provided did not "represent the least expensive appropriate way to move your belongings in accordance with section 55(4)(a)" of the Regulation.

### Appellant's position

The Appellant argues that exceptional circumstances existed and they could not obtain quotes prior to the move due to the urgency of the situation.

### Ministry's position

The Ministry stated that in order to obtain a crisis supplement for moving in the Appellant's circumstances, the criteria in section 55 of the Regulation must be met.

The Ministry outlined the criteria set out in Section 55 of the Regulation as follows:

1. You must be eligible for disability assistance;
2. The move is the required to avoid an imminent threat to physical safety;
3. You have no resources available to cover the costs of the move;
4. The supplement could be provided even if the Ministry's approval was not obtained before incurring the costs if the minister is satisfied that exceptional circumstances exist; and
5. The supplement provided is the least expensive appropriate moving cost.

The Ministry determined that the first four criteria above were met, and so the panel will focus on the final criteria: whether this was the least expensive appropriate moving cost.

The Ministry found they could not determine that the Appellant obtained the least expensive appropriate way to move, stating:

- 1) When asked, the Building Manager stated there was no costs to move the Appellant, and that staff and fellow residents had helped with the move;
- 2) There was no receipt provided which showed how payment was made ("cash, cheque or debit/credit");

- 3) There was no receipt provided with an itemized breakdown in costs so they could determine which of the costs for the move met the definition of a “moving cost”; and
- 4) There was no indication of the volume or type of items moved, or the length of time it took.

### Panel Analysis

Section 55(4) of the Regulation states that a crisis supplement for moving must be the “least expensive appropriate moving costs”.

On appeal, the Appellant submitted a signed receipt relating to the move. The receipt noted the amount of \$400, “paid in cash”, for “labour” for the move, and was signed by the mover with their contact details.

During the hearing, the Ministry stated that the receipt would be accepted in the “exceptional circumstances” of the situation. The Ministry also stated that, if the receipt has been provided prior to the Decision, the supplement “would have been approved”.

The Ministry stated that the reconsideration decision was made on the basis of the Building Manager’s account of the events. On further review of the Appellant’s submission, the Ministry found that the staff would have stopped working at 4:30pm and it would be difficult to ascertain how long the move would have taken. As such, the Ministry would now accept the Appellant’s statement in that they had moved the belongings themselves (and the mover who had been paid \$400).

The Ministry had previously determined that exceptional circumstances existed, meaning that prior approval of the costs was not necessary.

The Appellant did not submit an outline of his moving costs prior to the Decision being made, and the Ministry was unable to determine if they were the “least expensive appropriate” costs. The panel finds that the Ministry acted reasonably in making their original Decision because such a determination would not be possible without such documentation.

On appeal, the Appellant submitted a signed receipt which outlined costs of \$400 for labour for the move and the method of payment. This was reviewed by the Ministry at the hearing, and they determined that it satisfied their requirements.

Based on the new evidence and the Ministry’s confirmation that the receipt satisfies the final outstanding criteria for the supplement, the panel finds that the Decision is now unreasonable because all the criteria for the supplement for moving are met.

In this case, and based on the new evidence presented on appeal, the panel finds that the Ministry's Decision determining that the Appellant is not eligible for a crisis supplement for moving is unreasonable.

Conclusion

As all the criteria under section 55 of the Regulation are now met, the panel finds that the Ministry decision that determined the Appellant is not entitled to a crisis supplement for moving is not a reasonable application of the legislation in the circumstances of the Appellant.

The Appellant is successful on appeal.

**Legislation and Regulation(s)**

*Employment and Assistance for Persons with Disabilities Regulation*

Supplements for moving, transportation and living costs  
Section 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  
Robert McDowell

Signature of Chair



Date (Year/Month/Day)

2024/02/29

Print Name  
Susanne Dahlin

Signature of Member

Date (Year/Month/Day)

2024/02/ 29

Print Name  
Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2024/02/28