

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) Reconsideration Decision of June 7, 2024. The Ministry determined that the Appellant was not eligible for a moving supplement in respect of relocating her personal items from one storage facility to another because the provisions of the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”) relating to moving supplements does not expressly provide for a supplement in respect of the cost of moving a person’s personal belongings from one storage facility to another

**Part D – Relevant Legislation**

*Employment and Assistance for Persons with Disabilities Act* (the “Act”)- section 5

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

A full text of the above-noted legislation is reproduced at the end of Part F of this decision.

**Part E – Summary of Facts**

The hearing proceeded in person on June 28, 2024 with the Appellant and a representative of the Ministry in attendance by teleconference.

The Appellant is a recipient of disability assistance.

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

- an eviction notice, dated April 27, 2024 from a storage facility at which the Appellant's belongings were being kept (the "Eviction Notice");
- a handwritten note from the Appellant, setting out the costs of various alternative storage facilities and the cost of various moving companies; and
- The Appellant's Request for Reconsideration, dated May 29, 2024, which included:
  - a transaction summary of a bank account in the Appellant's name, showing a number of transactions in May 2024, including a \$600.00 e-transfer received by the Appellant on May 2, 2024 and a \$300.00 e-transfer received by the Appellant on May 13, 2024; and
  - a four page typed letter from the Appellant setting out the circumstances of attempts to obtain a moving supplement from the Ministry as well as explaining that the e-transfers noted on the banking summaries were monies advanced by the Appellant's aunt that the aunt required to repaid and that the Appellant's aunt had severed communication with the Appellant pending repayment.

In the Notice of Appeal, dated June 13, 2024, the Appellant wrote that "They were not taking the information I was giving them about my situation and change the details of the issue, they were not doing anything to help my case - this is a one time thing that I am asking for."

*The Hearing*

At the hearing of the appeal, the Appellant provided several new documents, as follows:

- an e-mail, dated June 27, 2024, from an individual confirming a charge of \$170.00 to move the Appellant's personal belongings from the Appellant's old storage facility to the new one;

- an e-mail, dated April 25, 2024, from an individual at a legal assistance organization with the subject line “subsidized housing in Vancouver”;
- e-mail correspondence, dated June 11, 2024, between the Appellant and an individual concerning new living accommodations for the Appellant;
- a receipt in the amount of \$123.15 for the rental of a moving vehicle;
- a receipt from the Appellant’s previous storage facility for the cost of boxes used to move the Appellant’s personal belongings.  
(collectively, the “Documents”)

### The Appellant

At the hearing of the appeal, the Appellant confirmed that quotations had been obtained for the cost of moving the Appellants personal belongings when it became clear that they would need to relocated t a new storage facility. The Appellant took the position that the request should not have been categorized as a moving supplement but, instead, that there should be some form of emergency fund available for this type of situation.

The Appellant described having been living in subsidized housing since February 2023 after vacating a previous rental residence as a result of being the victim of a serious breach of privacy by the then landlord. The Appellant has been unsuccessful in securing suitable accommodation since that time for a variety of reasons but is continuing to look for a new home. The Appellant has paid for both the ongoing storage of the personal belongings and paid for them to be moved to the original storage facility up to receiving the Eviction Notice. The Appellant has resided at various shelters since leaving the previous residence. None of those shelters can accommodate the Appellant’s personal belongings and the Appellant also has concerns about safety, having been exposed to violence and harassment at various shelters where the Appellant has resided. In the result, the Appellant had moved the personal belongings to a storage facility and has paid for that storage up to the time of receiving the Eviction Notice.

The Appellant indicated that the Ministry was first contacted on April 29, 2024, which was the first Monday after the Eviction Notice. By May 1, 2024, the Ministry had denied the request for a moving supplement although the Appellant noted that a Ministry representative had advised that the shelter allowance portion of the Appellant’s disability assistance (which was not being paid due to the Appellant living in a shelter and having no actual shelter costs) could be paid to cover the cost of storage.. The Appellant expressed frustration at how the request for a supplement had been handled by the Ministry, particularly as the Appellant was only asking for the cost of moving personal items and not

the cost of storage itself, which the Appellant had been paying since vacating a previous residence.

The Appellant confirmed plans to stay in British Columbia and advised that a number of places had been seen. However, the Appellant has no specific timeline for moving to a new residence. The Appellant remains in the process of moving, in effect, and is continuing to look for suitable housing.

### The Ministry

The Ministry stated that a supplement for storage fees can be considered when a person is moving in accordance with the provisions of the Regulation when a person is actually moving. The Ministry stated that, in this case, there is no specific move taking place and that the reason for the denial is that the Appellant's belongings are being moved from one storage facility to another.

The Ministry confirmed that it did have the authority to pay for moving and storage costs and that the Appellant's file could have been done differently but that there is no specific legislation or policy that addresses a situation like the Appellant's where only a person's belongings are being moved.

The Ministry acknowledged that there are exceptional circumstances in this case and that the Appellant's request could have been handled differently. The Ministry did state, however, that the request was governed by the provisions related to a moving supplement and that there is no authority to pay for the move of the Appellant's personal belongings or their storage under the Crisis Supplement provisions of the Regulation.

The Ministry also noted that it had an internal policy limiting the length of time for which storage of a recipient's personal belongings could be paid for by way of a supplement to three months.

### Admissibility of New Evidence

The Documents were not submitted in a timely manner which meant that they were not provided to the Ministry prior to the hearing. The Ministry was advised of the contents of the documents and did not oppose the admissibility of the documents after expressing concerns about the lateness with which they were submitted.

The Documents tell of the costs that the Appellant incurred in moving the personal belongings after being evicted from the original storage unit and the Appellant's ongoing

efforts to find suitable living accommodations. As such, the panel determines that the Documents are reasonably required for a full and fair disclosure of all matters related to the decision under appeal, in accordance with section 22(4) of the *Employment and Assistance Act*, and admits them into evidence.

No new evidence was presented by the Ministry at the hearing of the Appeal as the Ministry's submissions were confined to argument and the Ministry otherwise relied on the information that was before it at the time of the Reconsideration Decision.

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

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for a moving supplement in respect of relocating personal items from one storage facility to another.

*Analysis*

The Ministry's authority to issue supplements is found in Section 5 of the Act, which authorized the Ministry to provide disability assistance or a supplement for family units that are eligible for same.

The Ministry's authority to issue supplements specifically for moving and transportation costs is governed by Section 55 of the Regulation, which sets out that the Ministry may provide a supplement for moving costs for family units who are required to change their residences for a number of listed reasons, including "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", as set out in Section 55(2)(e).

In addition to the above, "moving cost" is defined expansively in Section 55(1) of the Regulation and includes the cost 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 while the family unit is moving if the minister is satisfied that storing the personal effects is necessary to preserve the personal effects."

The definition of "moving cost" does not impose any specific time criteria during which a move must be completed or limit the amount of time for which a family unit is eligible for a supplement in respect of the cost of storing their personal belongings. While the panel notes that the Ministry's internal policy, as noted at the hearing is that it limits this time to three (3) months, that is an internal policy and is not found anywhere in the Regulation. It should also be noted that the panel makes its decision on the basis of relevant legislation and not the internal policy of the Ministry.

The Appellant's evidence is that it was necessary to vacate a previous residence in February 2023 due to what appears to be a fairly serious breach of privacy. The Appellant paid for the cost of moving the personal belongings at that time as well as having paid the

cost of storing them since that time. The Appellant also gave evidence about reasonable safety concerns regarding the Appellant's current living arrangements and that the intention continues to be to move elsewhere in British Columbia.

In view of the foregoing, the panel concludes that Section 55(2)(e) of the Regulation is applicable to the Appellant in that there was an imminent threat to the Appellant's physical safety which required the move to a different location within British Columbia.

In addition, what constitutes moving costs is defined broadly. There is no time limit set out in the definition of "moving costs" during which an applicant must make the request. In other words, the Regulation does not require an applicant to apply for a supplement at the start, in the midst of, or at the conclusion of a move. In this case, the Appellant is, in effect, in the process of a move from one location in British Columbia to another due to an imminent threat to physical safety. There is also nothing in the legislation which limits an applicant's eligibility where the applicant is only applying for a supplement of part of the cost of moving as the Appellant appears to have done in this case.

In the result, the panel concludes that the Ministry was not reasonable in its determination that the Appellant was not eligible for the cost of moving personal belongings to a new storage facility as that is a cost that is clearly contemplated by the definition of "moving cost" under the Regulation. In particular, it would be inconsistent with the objective of the legislation if a moving supplement was available only for the cost of storing personal belongings but not the cost of moving those items to a facility at which they could be stored. Moreover, the Appellant has been required to move from one location in British Columbia to another due to an imminent threat to physical safety.

The Appellant is successful in this appeal. However, the panel makes no findings on the extent to which the Appellant may be eligible for a supplement in respect of the ongoing storage of personal belongings as that issue was not before the panel.

## *Relevant Legislation*

*Employment and Assistance for Persons with Disabilities Act*

### **Disability assistance and supplements**

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

*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.

2024-0225

**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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2024/07/04

Print Name

Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2024/07/04

Print Name

Edward Wong

Signature of Member

Date (Year/Month/Day)

2024/07/04