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PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

The decision under appeal is the Ministry's Reconsideration Decision dated July 6, 2009, which held that the Appellant is not eligible for shelter allowance to pay for a storage locker. The Ministry found that Schedule A, Section 5, EAR limits shelter costs to only the items listed in that section, and that storage locker fees are not one of the listed costs.

PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Employment and Assistance Regulation (EAR) Schedule A, Section 5



PART E – SUMMARY OF FACTS

Please set out the facts as determined by the panel, based on the evidence at the hearing. Please note that subsection 22(4) of the Employment and Assistance Act states that, in a hearing referred to in subsection (3), a panel may admit as evidence only:

- (a) the information and records that were before the minister when the decision was being made, and
- (b) oral or written testimony in support of the information and records referred to in paragraph (a).

The information before the Ministry at Reconsideration included:

- a receipt for storage locker fees in the amount of \$94.16
- a cell phone provider's receipt in the amount of \$29.62
- the Appellant's Request for Reconsideration, with attachment, dated June 17, 2009

At the hearing the Appellant advised that she chooses to live in a motor home rather than typical housing, and the Ministry has advised her that they must make an interpretation of the legislation to decide what parts of her shelter costs are covered by them. The Ministry refused to pay her storage locker fees of \$94.16 per month.

The Appellant argued that because she lives in a motor home, she must make other arrangements to store her belongings. People who live in traditional accommodation can store their goods there, but this is impossible for her due to space limitations. The Ministry's refusal to pay the cost of a storage locker denies her a benefit that is available to others. The Appellant noted that the Ministry provides her a cell phone, but this is not specifically listed in the legislation, therefore some leeway must be possible. In addition, although the maximum shelter cost under the legislation would be \$375.00 monthly for her family unit, she only receives \$126.17.

The Appellant advised that judicial decisions have established that legislation should given a broad interpretation that allows for the achievement of its objectives. In this case, the ordinary meanings of rent, occupancy and residence should be taken into consideration when considering shelter costs and a means to store her possessions should be provided.

The Ministry responded that the legislation clearly limits the items that are included in payment of shelter costs. If a recipient of income assistance rents a small room where their belongings cannot be stored, the Ministry does not pay for a storage locker because it is not considered to be a shelter cost. The Ministry does pay the cost of a cell phone for the Appellant, although it is not exactly as described in the legislation, because the Regulation provides for rental of one basic residential single-line telephone and the cost is similar, but storage lockers are not mentioned. The maximum payable shelter cost is \$375.00, but the Ministry pays only actual costs.

PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant's request to pay storage locker fees as shelter costs.

The EAR, Schedule A, Section 5(1) states that utility costs for a family unit's place of residence include only the following costs: (a) fuel for heating; (b) fuel for cooking meals; (c) water; (d) hydro; (e) garbage disposal provided by a company on a regular weekly or biweekly basis; (f) rental of one basic residential single-line telephone. Section 5(2) states that when calculating the actual monthly shelter costs of a family unit, only the following items are included: (a) rent for the family unit's place of residence; (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit; (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit; (d) property taxes for the family unit's place of residence if owned by a person in the family unit; (e) utility costs; (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

The Appellant argues that storage is included in the shelter costs for a person who lives in traditional housing. Because she lives in a motor home and has no fixed address, the Ministry should pay the cost of a storage locker as a shelter cost. She argues that the legislation should be interpreted to include payment all of the services that are provided with traditional housing.

The Ministry argues that it is limited by the legislation to payment for the items that are listed under shelter costs. A storage locker is not listed, therefore it cannot be provided.

The Panel finds that the legislation is specific in the wording of the only items that may be included shelter costs, and a storage locker is not included among them. Accordingly, the Panel finds that the Ministry's decision is reasonably supported by the evidence and therefore confirms the Ministry's decision.

ATTACH EXTRA PAGES IF NECESSARY