



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated February 7, 2014 which held that the Appellant is not eligible for a replacement of a lost, endorsed, February 2014 assistance cheque as set out in S.77 of the EAPWDR which enables the Minister to replace an unendorsed or stolen assistance cheque.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) S.77



PART E – Summary of Facts

The evidence before the Ministry at the time of the reconsideration decision consisted of:

1. The Appellant is a sole recipient of disability assistance since January 2009
2. On January 23, 2014 the Appellant reported that he lost his endorsed February 2014 assistance cheque between the bank and the vehicle while returning to get his identification.
3. The Ministry placed a stop payment on the Appellant's assistance cheque and advised the appellant that he is not eligible for lost or stolen replacement of his February 2014 assistance as the cheque was endorsed.
4. On January 27, 2014 the Appellant submitted a Request for Reconsideration.

In the Notice of Appeal, the Appellant states that the endorsed cheque did not get cashed and that the he understands the legislation.

PART F – Reasons for Panel Decision

The issue to be decided is whether the Ministry reasonably concluded that the Appellant is not eligible for a replacement of a lost, endorsed, February 2014 assistance cheque as set out in S.77 of the EAPWDR which enables the Minister to replace an unendorsed or stolen assistance cheque.

Legislation – EAPWDR

Replacement of lost or stolen assistance cheque

77 If satisfied that an unendorsed assistance cheque has been lost or stolen, the minister may issue a replacement as long as,

- (a) in the case of theft, the matter has been reported to police, and
- (b) in the case of loss or theft, the recipient
 - (i) makes a declaration of the facts, and
 - (ii) undertakes to promptly deliver the lost or stolen cheque to the minister if it is recovered.

The Ministry's position is that the Appellant does not qualify for a replacement cheque because:

- a) The Appellant acknowledged that he endorsed the assistance cheque, and
- b) Section 77 of the EAPWDR enables the Minister to replace an unendorsed lost or stolen assistance cheque, and
- c) The Minister does not have the discretion to issue a replacement for an endorsed cheque.

At the hearing, the Appellant was accompanied by an Advocate who was authorized to attend the hearing. The Appellant argued that he went to the bank as usual to cash his monthly cheque. The bank teller stated that the bank's new policy required the Appellant to produce identification in order to cash the cheque. The Appellant went home to get the required identification and realized that he had lost the cheque. The Appellant notified the Ministry and was informed that a replacement cheque could not be issued. Subsequent to that day, the Ministry did issue a temporary replacement cheque that must be repaid at \$20.00 per month should the Appellant lose his appeal to the Employment and Assistance Appeal Tribunal.

In the Notice of Appeal the Appellant states that he finds it unfair that he has to repay money back to the Ministry that he did not receive.

The Appellant's advocate restated the Appellant's evidence and made the point that the lost assistance cheque was an innocent error.

The Ministry confirmed that the Appellant was issued a temporary replacement cheque and that the amount is repayable at \$20.00 per month should the Appellant lose his appeal to the Employment and Assistance Appeal Tribunal.

The panel finds that Section 77 of the EAPWDR clearly sets out the criteria to be met in order to be eligible for a replacement of a lost or stolen assistance cheque. The Appellant freely admits that the assistance cheque was endorsed.



The Panel acknowledges that the assistance cheque was endorsed when it was lost by the Appellant. The Panel further acknowledges that the legislation only allows for providing a replacement cheque if the lost or stolen cheque was not endorsed.

Therefore, based on the legislation and the facts presented in this decision, the Panel finds that the Ministry's reconsideration decision is reasonably supported by the evidence and confirms the decision.