



PART C – Decision under Appeal

Under appeal is the Ministry of Social Development and Social Innovation's ("the ministry") October 22, 2015 reconsideration decision that as section 28 of the Employment and Assistance Regulation requires a recipient's net income is to be deducted from income assistance, the appellant was ineligible for May 2012 assistance and is therefore liable to repay it under the terms of section 27 of the Employment and Assistance Act.

PART D – Relevant Legislation

EAA Employment and Assistance Act, section 27 EAR Employment and Assistance Regulation, section 28

PART E – Summary of Facts

The evidence before the ministry at reconsideration was:

- The appellant receives income assistance as a sole recipient.
- July 15, 2015 letter from ministry investigative officer to the appellant advising of a potential overpayment.
- Employer payroll journal showing the appellant's March 2012 earnings in excess of his monthly assistance rate.
- Overpayment chart illustrating the appellant's net earnings.
- Copy of front and back of BC Employment and Assistance April 25, 2012 endorsed cheque payable to appellant.
- Ministry record of August 19, 2015 conversations with the appellant and two ministry employees in which the appellant agreed it was his signature on the copy of the cashed cheque.
- Request for reconsideration, in which the appellant asked about ministry cheque issuing procedures, stated the bank was unable to produce video footage via RCMP because it exceeded eight month limitation after date of incident, raised the possibility of debit card fraud, and pointed out the issue was from 3 years ago.

Upon appeal the appellant submitted a copy of a Mapquest map, and a letter in which he said he was making more money than what the assistance cheque was worth and there was no reason to request assistance at that time. He pointed out that a ministry employee told him the assistance cheque was mailed to his address, that he did not go to the ministry office to pick it up. He said the chip embedded in a debit card can be hacked by criminals to obtain the numbers. He wanted to see the original cheque and original monthly report, and suggested the copy of the back of the cheque could have been from another assistance cheque with his signature. He says the cheque was cashed at a bank where he has never been, far from his home, while two branches of the bank were located close to his address.

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PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's reconsideration decision that as section 28 of the EAR states a recipient's net income is to be deducted from income assistance, the appellant was ineligible for May 2012 assistance and is therefore liable to repay it under the terms of section 27 of the EAA.

Relevant Legislation

Employment and Assistance Act (excerpt)

Overpayments

27 (1) If income assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 17 (3) [reconsideration and appeal rights].

Employment and Assistance Regulation (excerpt)

Amount of income assistance

28 Income assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

(a) the amount determined under Schedule A, minus

(b) the family unit's net income determined under Schedule B.

Appellant's Position

The appellant argues he had income from temporary work and did not need the May 2012 assistance cheque, that he did not receive the assistance cheque, and the cheque was cashed at a bank far from his home where he has never been. He also argues he has not been given the opportunity to examine the original cheque, and because three years have passed it is not possible to obtain the bank's video footage of the transaction.

Ministry's Position

The ministry argues the appellant earned income in excess of his assistance rate and was therefore ineligible for the May 2012 assistance cheque sent to him, and that a copy from the bank of the cashed cheque shows the appellant's signature on the back. The ministry says the appellant is required to repay the overpayment as stated by section 27 of the EAA.

Panel's Decision

The appellant does not dispute that his earnings at the time exceeded his assistance rate and does not claim he was entitled to the May 2012 assistance cheque issued by the ministry. The panel finds the ministry's determination that, as stated in section 28 of the EAR, the appellant's net income was to be deducted and he was not entitled to the May 2012 income assistance, to be reasonable.

Section 27 of the EAA requires recipients of income assistance for which they were not eligible to repay the income for which they were not eligible. The appellant says he did not receive the ministry's cheque or cash it, speculates he was the victim of theft, and objects to having to repay the money. While the panel recognizes the difficulty presented by the time lapse, the appellant has not provided any evidence of theft and acknowledged to the ministry it was his signature on the back of the copy of the cashed cheque. As the onus is on the appellant to establish he did not receive or cash the cheque, the panel finds the ministry's determination that the appellant is liable to repay the amount of the May 2012 income assistance to be reasonable.

The panel finds the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision.