

APPEAL NUMBER
2020-00269

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated November 17, 2020 where the ministry denied the request to replace the appellant's November 2020 assistance cheque.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation, Section 92.

PART E – SUMMARY OF FACTS

Evidence before the ministry at reconsideration consisted of the following:

- The appellant is a sole recipient of income assistance whose file has been open since November 26, 2020.
- On October 27, 2020, the ministry provided the appellant with the November assistance cheque.
- On November 29, 2020, the appellant attended the ministry office and advised that the November cheque was lost. The ministry reviewed the ministry's payment system and noted the cheque was showing as cashed. The appellant suggested that the cheque must have been lost as the appellant did not cash it and that it was likely lost after the appellant left a line up at a bank because it was too long. The ministry then requested a copy of the cheque to see if it had been endorsed.
- The ministry reviewed the cheque and noted it was endorsed with a signature similar to the appellant's signature on the file. The ministry also noted the bank teller listed a birth certificate and driver's license which matched the appellant's identification from file records. The ministry denied the appellant's request to replace the cheque. A photocopy of the cheque image was attached to the reconsideration decision. Also attached to the ministry record was a copy of a Declaration and Undertaking for a Lost or Stolen Payment form signed by the appellant on August 19, 2020 together with a certified copy of the appellant's identification, both taken in respect of a lost cheque for \$40.00 replaced by the ministry on that same date.
- On November 5, 2020, the appellant submitted a request for reconsideration. The appellant described being stressed and sleep deprived because the appellant's parent had died, that the appellant's tent was ravaged and that both the November cheque and ID had been taken.

Request for Reconsideration

The appellant signed the request for reconsideration on November 5, 2020 which contained the following comments:

"I, the appellant, request reconsideration because before was very stressed and sleep deprived. Father just died and I'm in a horribly sad and devastating state my tent was ravaged thru and both ID and cheque taken."

Notice of Appeal

On November 18, 2020, the appellant signed a Notice of Appeal which contained the following comments:

"I, the appellant, do not agree with the ministry decision because there wrong. I have no past problems in this regard and believe whoever got a hold must have been a good con or copier of signature. I am a noble man with no criminal record and would never try 2 pull fraudulence. Plz help."

Appellant's Submissions

The appellant provided no additional information to the commentary provided with the Request for Reconsideration and Notice of Appeal.

Admissibility

The panel considers none of the information provided by the appellant to be new evidence and therefore it is admissible under section 22(4) of the Employment and Assistance Act.

Hearing

At the request of the appellant, a written hearing was held on December 30, 2020, in accordance with section 22(3)(b) of the Employment and Assistance Act. The appellant provided no submission for the hearing while the ministry confirmed, in an email dated December 10, 2020, that the ministry's submission in this matter would be the reconsideration summary provided in the Record of Ministry Decision.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry decision to deny the appellant's request to replace the November assistance cheque is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Ministry Position

The ministry reconsideration decision notes that section 92 of the Employment and Assistance Regulation requires that if the ministry is satisfied that an unendorsed assistance cheque has been lost or stolen, the cheque may be replaced if the matter has been reported to the police and the recipient has made a declaration of the facts and undertakes to deliver the lost or stolen cheque to the ministry if recovered. The ministry notes that the appellant originally reported the cheque as lost and subsequently as stolen. Because of this discrepancy, the ministry was unable to verify that the cheque had been lost or stolen. The ministry noted that while the cheque appeared to be endorsed with a signature similar to that of the appellant on the ministry file, the signature could have been imitated by another person. However, the appellant's driver's license and birth certificate number were written on the back of the cheque implying to the ministry that an employee of the bank verified the appellant's identity when the cheque was cashed. As a result, the ministry is not satisfied the appellant did not endorse the cheque and the request to replace the November cheque was denied.

Appellant's Position

The appellant indicated at the time of the original request that the cheque was lost after standing in line at the bank and giving up because the line was too long. On the Request for Reconsideration, the appellant reported being sad and devastated due to the death of a parent and that the appellant's tent had been ravaged and that both the appellant's ID and cheque had been taken. On the notice of appeal, the appellant professes not to have done anything fraudulent and that whoever got hold of the cheque was a good con or copier of the cheque.

Panel Decision

The panel agrees with the ministry that this situation is governed by section 92 of the Employment and Assistance Regulation. The legislation provides that an unendorsed assistance cheque might be replaced as long as in the case of theft, the matter has been reported to police, and in the case of loss or theft, the recipient makes a declaration of facts, and undertakes to promptly deliver the lost or stolen cheque to the ministry if recovered. The panel notes that the evidence in this appeal is not conclusive as to whether the cheque was in fact lost or stolen. On the one hand, the appellant originally reports the cheque as lost and subsequently states the appellant's tent had been ravaged and both identification and cheque were stolen. The appellant has provided no evidence of theft, such as a police report, as would be required if the cheque had been stolen. The panel believes the evidence of the signature and sources of identification on the reverse of the cheque are crucial in considering whether the cheque was unendorsed, as required by the legislation. The panel agrees with the ministry that the evidence of the appellant's birth certificate and driver's license (a photo ID) suggests the bank was satisfied that the appellant did endorse the cheque. The panel therefore agrees, based on a relative weighting of all evidence, that the ministry acted reasonably in denying the appellant's request.

Conclusion

The panel confirms the ministry reconsideration decision as it was a reasonable application of the legislation in the appellant's circumstances. The appellant is not successful upon appeal.

Legislation

Employment and Assistance Act

Replacement of lost or stolen assistance cheque

92. 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

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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)

and

Section 24(2)(a) or Section 24(2)(b)

PART H – SIGNATURES

PRINT NAME

Keith Lacroix

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

December 30, 2020

PRINT NAME

Dawn Martin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

December 30, 2020

PRINT NAME

Kevin Ash

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

December 30, 2020