

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision, dated May 8, 2023 (the "Reconsideration Decision"), of the Ministry of Social Development and Poverty Reduction (the "Ministry"). In the Reconsideration Decision, the Ministry held that the Appellant was not eligible for a replacement cheque for his May 2023 disability assistance as the cheque, dated April 19, 2023 (the "Cheque"), delivered by the Ministry for May assistance had been endorsed.

Section 77 of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR") permits the Ministry, if specific criteria have been met, to issue a replacement cheque where a recipient's unendorsed cheque has been lost or stolen.

Part D – Relevant Legislation

EAPWDR- section 77

A full text of the applicable legislative provision can be found at the end of Part F of this decision.

Part E – Summary of Facts

The Appellant is a sole recipient of disability assistance.

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

- A copy of the front and back of the Cheque, with the Appellant's initials on the endorsement line on the back of the Cheque;
- The Appellant's monthly report, dated October 27, 2022, signed by the Appellant in a manner that was consistent with the appearance of the Appellant's initials as they appeared on the rear of the Cheque;
- A release of personal information form from the Ministry, dated April 19, 2022, permitting the Ministry to release information to a non-profit society, which was also signed by the Appellant in a manner consistent with the appearance of the Appellant's initials as they appeared on the rear of the Cheque; and
- The Appellant's Request for Reconsideration ("RFR"), which was dated June 1, 2023 (but appears to have been submitted on May 1, 2023), in which the Appellant stated that he had received only three cheques in four months.

In the Notice of Appeal, the Appellant stated that "cheque day came and I didn't get a cheque." The Appellant further stated that he did not know if it was for January or April as he only had stubs for February and March.

The Appellant was not present at the hearing and, after confirming that the Appellant had been delivered the Notice of Hearing in respect of this appeal almost two weeks prior to the hearing date, the hearing proceeded in the absence of the Appellant, in accordance with section 5.2(e) of the *Tribunal Practices and Procedures*.

At the hearing, the Ministry stated that on April 25, 2023, the Appellant had requested a replacement cheque. After reviewing the Intracheck printout (a copy of both the front and back of a cashed cheque) of the Cheque, the Ministry determined that the Appellant's cheque had been endorsed with a signature similar to the Appellant's, when compared to other documents signed by the Appellant.

The Ministry representative stated that section 77 of the EAPWDR was applicable to the Appellant's circumstances and, in this case, after comparing the markings on the endorsement line of the Cheque to other documents signed by the Appellant, the Ministry determined that the Appellant had, in fact, endorsed the Cheque, making him ineligible for a replacement cheque.

The Ministry representative confirmed that the Appellant had not indicated that the Cheque had been stolen.

Part F – Reasons for Panel Decision

Issue on Appeal

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a replacement cheque for his May 2023 disability assistance as the Cheque, which was issued for the Appellant's May assistance, had been endorsed.

Panel Decision

Section 77 of the EAPWDR authorizes the Ministry to replace only an unendorsed assistance cheque where a recipient's assistance cheque is either lost or stolen.

In all instances where a cheque has been either lost or stolen, a recipient must:

- Make a declaration of the facts that led to the cheque going missing; and
- Give an undertaking to the Ministry to return the lost or stolen cheque, if recovered.

In addition to the above requirements, where a cheque is stolen, a recipient must also report the theft to the police.

In the case of the Appellant, the Ministry obtained the Intracheck printout for the Cheque and observed that it had been endorsed, which precludes the Ministry from replacing it, pursuant to section 77 of the EAPWDR.

The Ministry, however, went further and compared the signature on the endorsement line of the Cheque to other examples of the Appellant's signature to satisfy itself that the cheque had, in fact, been endorsed by the Appellant. The examples of the Appellant's signature reviewed by the Ministry appear very similar to the signature on the endorsement line of the Cheque. In addition to the above-noted samples, the Appellant also signed the RFR in a manner that was consistent with the initials on the back of the Cheque. As such, the panel finds that it was reasonable for the Ministry to conclude that it was the Appellant who had endorsed the Cheque.

In view of the fact that the Cheque was endorsed and given the panel's finding that the Ministry reasonably concluded that the Appellant had endorsed the Cheque, the panel finds that the Ministry reasonably determined that it did not have the authority to issue a replacement cheque to the Appellant for the lost Cheque.

The Appellant is not successful in this appeal.

Relevant Legislation

Section 77, 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.

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

Part H – Signatures

Print Name

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2023/June/5

Print Name

Edward Wong

Signature of Member

Date (Year/Month/Day)

2023/06/05

Print Name

Kim Louie

Date (Year/Month/Day)

2023/06/05