

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) decision dated May 23, 2023 (the Decision), that denied the Appellant's request to replace his May 2023 Disability Assistance cheque.

### **Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation, section 77

Employment and Assistance Regulation, sections 85(2) and 86(b)

***A full text of the relevant legislation is provided in the Schedule of Legislation after the Reasons in Part F below***

**Part E – Summary of Facts**

The Appellant is a sole recipient of Disability Assistance.

The evidence the Ministry had when it made the Decision included:

- A copy of the front and back of a Ministry cheque dated April 18, 2023, in the amount of \$1,343.50, made payable to the Appellant. The back of the cheque includes a line, above which appears a signature. The words "*Endorsement – Signature or Stamp*" are typed below the line. The back of the cheque also includes:
  - A hand-written record of a British Columbia identification (BCID) card number and the number of a second piece of identification; and,
  - A bank stamp showing the name of the bank and the bank branch at which the cheque was cashed or deposited;
- Scanned copies of the Appellant's birth certificate and BCID card;
- A two-page copy of a Ministry form titled "Declaration and Undertaking for a Client Lost or Stolen Payment" (the Declaration), signed by the Appellant on February 17, 2023. The Declaration refers to a different cheque issued by the Ministry on February 15, 2023, in the same amount as the cheque which is the subject of the appeal. A box on the Declaration titled "*I have not received the cheque or electronic deposit*" has been ticked;
- The Appellant's Reconsideration request, in which he says:
  - A computer error resulted in the delivery of a cheque to his home address, which resulted in him being denied Disability Assistance;
  - The Ministry error resulted in the theft of the cheque;
  - Several requests were made to have the cheque picked-up at the Ministry office to ensure that the Appellant's identification was verified at the time it was picked-up and that there was confirmation of his receipt of the cheque;
  - Security flaws with the BCID card "*lead to signature compromise on the BCID – Health Care Card with lost or stolen ID*"; and,
  - He is being targeted personally and professionally by character assassination with malicious intent, and as a result he wants a related investigation by the ethics committee.

***Additional Information Submitted after Reconsideration***

In the Notice of Appeal, the Appellant said that the Ministry refused to let him pick-up his cheque at the Ministry office and that his monthly Disability Assistance cheques continue to be mailed out due to a computer glitch.

### **Evidence Presented at the Hearing**

Neither the Appellant nor the Ministry attended the hearing. After confirming that both parties received notice of the time and date of the hearing at least two business days before the hearing was scheduled to start, as set out in sections 85(2) and 86(b) of the Employment and Assistance Regulation, the Panel held the hearing shortly after the scheduled start time and made a decision based on the available evidence.

### **Admissibility of New Evidence**

Section 22(4) of the *Employment and Assistance Act* says that a panel can consider evidence that is not part of the record when the Ministry made its decision. But first the panel must consider if the new information is relevant to the decision. If a panel determines that any new evidence can be admitted, it must decide if the decision was reasonable considering the new information.

The Panel notes that there is new information in the Notice of Appeal. The Appellant argues that the Ministry refused to let him pick-up his cheque at the Ministry office, his monthly Disability Assistance cheques continue to be mailed to him, and as a result his May 2023 Disability Assistance cheque was fraudulently negotiated. This Panel admits this new information because it is relevant to the decision, for the reasons given in the "Panel Decision" section below. However, because the Appellant has not provided any evidence to support his claim that his May 2023 Disability Assistance cheque and identification were stolen, the Panel assigns no weight to this new information.

## Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision, that denied the Appellant's request to issue the Appellant's May 2023 Disability Assistance cheque because it was not endorsed, was reasonably supported by the evidence or a reasonable application of the legislation in the Appellant's circumstances.

### **Appellant's Position**

The Appellant's position is that his April 2023 Disability Assistance cheque was stolen because the Ministry did not hold the cheque at their office for him to pick-up, and as a result he is being denied Disability Assistance.

### **Ministry's Position**

The Ministry's position is that the Appellant's May 2023 Disability Assistance cheque totalling \$1,343.50 was endorsed and cashed on April 24, 2023. The Ministry does not have the legislative authority to replace the cheque, as it is not unendorsed.

### **Panel Decision**

Section 77 of the Regulation says that the Ministry can issue a replacement for a lost or stolen cheque if the original assistance cheque was not endorsed, and if, in the case of theft, it was reported to the police, or, if in the case of loss or theft, the client undertakes to deliver the lost or stolen cheque to the Ministry if it's recovered.

The Panel notes that Section 77 only applies if the cheque was not endorsed. The term "*endorsed*" is not defined in the legislation. The Merriam Webster dictionary defines "*endorse*" to mean "*to sign one's name as payee on the back of (a cheque) in order to obtain the cash or credit represented on the face*". Based on this definition ("*to sign **one's name**...*"), the Panel finds that it is reasonable to assume that Section 77 applies both in circumstances where a lost or stolen cheque is not endorsed, and in circumstances where a cheque has been fraudulently endorsed by someone other than the payee.

The Panel notes that the image of the back of the Appellant's original May 2023 Disability Assistance cheque bears a signature which appears to be the Appellant's signature and the BCID number corresponding to the BCID number that the Ministry has on file for the Appellant. The Appellant has not provided any additional evidence to support his contention that his May 2023 Disability Assistance cheque and identification were lost or stolen, such as a police report, for example. Therefore, the Panel finds that the Ministry reasonably determined that section 77 does not apply.

### *Conclusion*

The Panel finds that the Ministry's Decision, that denied the Appellant's request to replace the Appellant's May 2023 Disability Assistance cheque because it was endorsed, was reasonably supported by the evidence and was a reasonable interpretation of the legislation in the Appellant's circumstances. The Decision is confirmed and the Appellant's appeal is not successful.

## **Schedule of Legislation**

### **EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION**

#### **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.

### **EMPLOYMENT AND ASSISTANCE REGULATION**

#### **Time period for scheduling and conducting hearing**

**85** (2) The chair of the tribunal must notify the parties of the date, time and place of a hearing described in subsection (1) at least 2 business days before the hearing is to commence.

#### **Procedures**

**86** The practices and procedures of a panel include the following:

- ... (b) the panel may hear an appeal in the absence of a party if the party was notified of the hearing ...

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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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2023/06/29

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2023/06/29

Print Name

Dawn Wattie

Signature of Member

Date (Year/Month/Day)

2023/06/29