

Appeal Number 2023-0234

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of July 25, 2023. In the Reconsideration Decision the ministry determined that the appellant was not eligible to receive a replacement disability assistance cheque for June because the original cheque had been endorsed

Part D - Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (the Regulation)
Section 77

Part E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- The appellant is a sole recipient of disability assistance.
- On May 24, 2023 the appellant requested replacement of her June disability assistance cheque (dated May 17), reporting that it had been stolen.
- On June 5, 2023 the ministry determined that the cheque had been cashed and the signature on the cheque image of the endorsed cheque matched existing samples of the appellant's signature.
- On July 23, 2023 the appellant requested a reconsideration and informed the ministry that a cheque-cashing facility had her endorse the cheque but then would not cash it and that the cheque was subsequently stolen.
- An official copy of the front and back of the original cheque provided by the banking institution.

Neither the Appellant nor the Ministry Representative attended the hearing. After confirming the Notice of Hearing had been delivered to the relevant addresses, the panel continued in their absence pursuant to Section 86(b) of the Employment and Assistance Regulation.

The panel notes some inconsistency in the evidence as to whether the request to have the cheque replaced refers to the original cheque for June disability assistance or to a subsequently issued replacement cheque. A discrepancy also exists between the cheque number shown in the trace request and the number on the cheque provided by the banking institution. However, given that the date, the payee, and the amount on the cheque provided is consistent with the cheque being for June disability assistance, the panel is satisfied that the cheque produced indicates that a cheque for June disability assistance has been cashed by the bank.

Part F – Reasons for Panel Decision

The issue before the panel is whether the ministry's decision that the appellant was not eligible for a replacement cheque was reasonably supported by the evidence or a reasonable application of the legislation. That is, was the ministry reasonable to decide that the appellant's cheque was endorsed and therefore could not be replaced.

Ministry Position

The ministry only has discretion to replace unendorsed ministry cheques and cannot replace cheques that have been endorsed. As such, the ministry does not have the legislative authority to replace the June disability assistance cheque.

Appellant's Position

The appellant argues she is entitled to a replacement cheque because the cheque-cashing facility required her to endorse the cheque but they refused to cash it for her. It was subsequently stolen before she had a chance to cash it. She is suffering from the loss.

Panel Decision

Section 77 reads "If satisfied that an unendorsed assistance cheque has been lost or stolen, the minister may issue a replacement ...". The Regulation is silent concerning the handling of an endorsed assistance cheque. The Ministry interprets this as meaning they are only authorized to issue a replacement cheque if the cheque reported as lost or stolen has not been endorsed. The panel notes that in determining that the cheque was endorsed, the ministry considered whether it was the appellant who had signed and endorsed, the cheque. The panel finds that this interpretation of the Regulation is reasonable.

The fact that the Appellant endorsed the cheque is not in dispute.

Section 77 continues "as long as, a) in the case of theft, the matter has been reported to police...". The Appellant provides no statement or evidence to indicate that the theft was reported to the police.

Conclusion

Because a cheque for June disability assistance was endorsed by the appellant, and because no report of the theft was made to the police, the panel finds that the Ministry decision to deny a replacement cheque was a reasonable application of the legislation in the Appellant's circumstances.

The Panel confirms the Ministry's reconsideration decision. The Appellant is not successful in their appeal.

APPEAL NUMBER 2023-0234

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

Wes Nelson

Signature of Chair

Date (Year/Month/Day)

2023/08/27

Print Name

Inge Morrissey

Signature of Member

Date (Year/Month/Day)

2023/08/27

Print Name

Bill Haire

Signature of Member

Date (Year/Month/Day)

2023/08/27