Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "ministry") Reconsideration Decision dated 12 May 2025, which denied the appellant a replacement of a lost May disability assistance cheque.

Specifically, the ministry determined that they could not replace the cheque in accordance with Section 77 of the *Employment and Assistance for Persons with Disability Regulation*.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (the "Regulation") section 77.

Part E – Summary of Facts

The hearing took place on June 16, 2024, as a teleconference. The appellant was not present at the start of the hearing. Tribunal staff confirmed that the appellant had been notified of the hearing start time and made attempts to contact them, and after 15 minutes the hearing commenced with the ministry representative in attendance. The appellant joined the hearing 20 minutes after the start of the hearing.

Evidence at the time of reconsideration

In the Request for Reconsideration dated April 29, 2025, the appellant stated: …"I never received my full cheque. $850.00 I cashed I'm missing $200.00."

It also included a copy of cheque# [redacted]7601, dated April 15, 2025, for $870.50. The back of the cheque included a signature and bank identification and routing numbers, including "BMO".

According to the Ministry's decision, the following is a chronology of events:

1) April 23, 2025: the appellant contacted the ministry to advise that they had not received their May benefit cheque of $870.50 that was issued on April 16, 2025;
2) April 25, 2025: the ministry reviewed a cheque trace and determined that the cheque was "endorsed with your signature and cashed at Bank of Montreal on April 16, 2025";
3) April 25, 2025: the ministry informed the appellant that a request for a replacement cheque was denied.

The ministry completed its review of the Request for Reconsideration on May 12, 2025.

In the Reconsideration Decision, the ministry found that:

1) Cheque # [redacted]760 for $870.50 was mailed to the appellant's home on April 16, 2024.
2) The cheque trace for cheque #[redacted]760 confirmed that the appellant signed the back and cashed it.
3) The request for a replacement of cheque #[redacted]760 did not meet all the criteria set out in Section 77 of the Regulation.

Testimony at the hearing

The appellant spoke about their situation.

The appellant confirmed that they received and cashed cheque #[redacted]760 for $870.50. They state they made the reconsideration application to the ministry to replace a missing $200.00 cheque.

The appellant is frustrated and does not understand why the ministry is fixated on the cheque for $870.50. The appellant repeated the wording in the original application for review, which states "$850.00 I cashed. I'm missing $200.00".

The ministry representative confirmed the total monthly disability assistance amount of $1,535.50 to the appellant for May 2025 is paid out as follows :

1. A monthly payment directly to the appellant for $870.50 (cheque #[redacted]760);
2. A second monthly payment to the appellant for $200.00;
3. Payment for medical fees paid directly; and,
4. Payment for rent, which is paid directly to the landlord.

The ministry representative noted that, from the ministry's perspective, there appeared to be a misunderstanding about which cheque required replacement. On the morning of the hearing, the ministry representative initiated a cheque trace to obtain information about the $200.00 cheque. The ministry representative confirmed from their records that cheque #[redacted]253 for $200.00 was issued on April 17, 2025. They also stated that ministry records indicate that the cheque was collected in person at a ministry office, and that the identification of the person who collected the cheque was confirmed by a ministry staff member. However, the visual record of the cheque trace, which would include the endorsement, signature of whoever cashed the cheque, and the bank the cheque was deposited at, would take more time to receive.

During the hearing, the appellant denied visiting the ministry office to obtain the $200.00 cheque and states that they did not deposit the $200.00 cheque. They believe it was lost or stolen and they would like it replaced.

Admissibility of Additional Information

The panel admitted the appellant's and ministry representative's oral testimony at the hearing and the ministry's evidence about cheque #[redacted]253 for $200.00 as evidence under Section 22(4) of the *Employment and Assistance Act* which allows for the admission of evidence reasonably required for a fair full and fair disclosure of all matters related to the decision under appeal. The appellant and the ministry representative did not object to the admission of this evidence.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's Reconsideration Decision that denied the appellant a replacement for a lost cheque was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine under Section 77 of the Regulation that the appellant was ineligible for a replacement cheque?

Ministry position

The ministry made a cheque trace for cheque #[redacted]760 for $870.50 and, after reviewing the signature on the cheque, determined that they were not satisfied that the appellant did not endorse the cheque, and it would not be replaced.

Appellant's position

The appellant stated in their reconsideration request that they received and deposited cheque #[redacted]760 for $870.50. They reconfirmed this at the hearing. They are missing a cheque for $200.00 and wrote in their original Request for Reconsideration to the ministry: "I'm missing $200.00." They would like the lost cheque for $200.00 replaced.

Panel's reasons

In the Reconsideration Decision, the ministry reviewed and determined that the payment of cheque #[redacted]760 for $870.50 did not meet ministry's criteria for replacement. The Appellant states in his request for reconsideration "$850.00 I cashed ... I am missing $200.00". The panel notes that the handwritten "850.00" has been written over and the "5" is somewhat unclear.

The ministry obtained and reviewed a cheque trace for the $870.50 cheque, the payment of which is not in dispute by the appellant. The ministry did not obtain a cheque trace for the $200.00 cheque and it was not reviewed as part of the Reconsideration Decision. The appellant wrote in their request for review: "I'm missing $200.00".

In this instance, the panel finds that the ministry did not reasonably determine, based on the evidence provided at reconsideration, that the appellant was ineligible for a replacement of the $200.00 cheque. Such a determination by the ministry would reasonably require some type of review of the cheque in question. The evidence in this case does not indicate that a review of the $200.00 cheque payment was part of the Reconsideration Decision.

At the hearing, the ministry representative provided additional evidence about the $200.00 cheque (#[redacted]253): in particular, that the cheque was issued, apparently was handed to the appellant in the ministry's office and was deposited at some point. However, a copy of the cheque, including the signature of whoever deposited it and the bank where it was deposited, was not provided to the panel at the hearing.

Regardless of this additional evidence provided about the $200.00 cheque, in this instance, the panel's role is to review the ministry's Reconsideration Decision and determine whether the ministry acted reasonably and in accordance with the legislation when making that decision.

There appears to have been a misunderstanding on the ministry's part regarding which cheque required replacing and this misunderstanding apparently formed the basis for the ministry's Reconsideration Decision. Based on the evidence, including the Request for Reconsideration and the ministry's evidence that the appellant's monthly assistance amount included two payments, the appellant requested the replacement of a $200.00 cheque. The ministry reviewed a $870.50 cheque and based their decision on the payment of this specific cheque. No review or inquiry was made about the cheque issued in the amount of $200.00 despite the fact that the Appellant asked about a missing $200.00 and admitted that they received the other larger amount. Based on these facts, the panel finds that the ministry's decision is not reasonable.

In the view of the panel, the ministry's decision that the appellant is not eligible for the replacement of a cheque after not reviewing the cheque in question means that the ministry's review is inadequate and that the decision is not reasonably supported by the evidence and is not a reasonable application of the legislation in view of the request of the appellant.

The panel rescinds the ministry's decision.

Schedule of Legislation

EMPLOYMENT AND ASSISTANCE FOR PEOPLE 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

a. makes a declaration of the facts, and

b. 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 Robert McDowell	
Signature of Chair	Date (Year/Month/Day) 2025/06/20

Print Name Jan Broocke	
Signature of Member	Date (Year/Month/Day) 2025/06/19
Print Name Rick Bizarro	
Signature of Member	Date (Year/Month/Day) 2025/06/17