

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by T.L.
AICAC File No.: AC-07-11**

PANEL: Mr. Mel Myers, Q.C., Chairperson

APPEARANCES: The Appellant, T.L., was not present at the hearing; Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Terry Kumka.

HEARING DATE: July 16, 2008

ISSUE(S):

- 1. Whether the Appellant's Income Replacement Indemnity (IRI) was properly terminated as of July 6, 2006;**
- 2. Whether the Appellant was entitled to Personal Injury Protection Plan (PIPP) benefits in the one-month period following the July 6, 2006 decision.**

RELEVANT SECTIONS: Sections 160(a) and 110(1)(a) of The Manitoba Public Insurance Corporation Act ('MPIC Act')

MAIC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE PERSONAL HEALTH INFORMATION OF INDIVIDUALS BY REMOVING PERSONAL IDENTIFIERS AND OTHER IDENTIFYING INFORMATION.

Reasons For Decision

The appeal hearing commenced on July 16, 2008 at 9:30 a.m. at the Commission's office in the City of Winnipeg. MPIC's legal counsel, Mr. Terry Kumka, was present at the hearing. T.L. (hereinafter referred to as the 'Appellant') did not attend the hearing.

MPIC's legal counsel requested that the Commission proceed with the appeal hearing. The Commission initially had to determine whether or not the Appellant had been properly served with the Notice of Hearing for July 16, 2008.

The Commission issued a Notice of Hearing on June 9, 2008 to the Appellant and MPIC's legal counsel which fixed a date for the appeal hearing for July 16, 2008 at 9:30 a.m. at the Commission's office in the City of Winnipeg. In this Notice of Hearing the Commission stated that:

1. Should either party fail to appear or to be represented at the above time and place, the Commission may proceed with the hearing and render its decision.
2. Alternatively, it may dismiss the appeal, adjourn the hearing to a new time and date, or take such other steps as it deems appropriate.

The Commission was advised at the appeal hearing, by the Director of Appeals, that a Notice of Hearing (a copy of which is attached and marked 'Exhibit A') in respect of this appeal dated June 9, 2008 was sent by regular letter mail to the Appellant's address at [text deleted], [text deleted], Manitoba, [text deleted]. The Commission notes that this is a mailing address as noted, by the Appellant, in his Notice of Appeal to the Commission.

The Commission determined that the Appellant had been properly served with a Notice of Hearing in accordance with the provisions of the MPIC Act and decided to proceed with the appeal hearing. MPIC's legal counsel, in his verbal submission, argued that the Internal Review Officer was correct in determining:

1. That MPIC correctly terminated the Appellant's Income Replacement Indemnity ('IRI') benefits as of July 6, 2006 pursuant to Section 110(1)(a) of the MPIC Act.
2. That MPIC correctly suspended the Appellant's Personal Injury Protection Plan ('PIPP') benefits for a period of one (1) month following the July 6, 2006 decision.

The Commission, after considering the submission of MPIC's legal counsel, and upon examination of the documentary evidence filed in the appeal proceedings, finds the Appellant has failed to establish, on a balance of probabilities, that MPIC had incorrectly:

1. Terminated his IRI as of July 6, 2006, pursuant to Section 110(1)(a) of the MPIC Act.
2. Suspended the Appellant's PIPP benefits for a one (1) month period following July 6, 2006.

The Commission therefore dismisses the Appellant's appeal and confirms the decision of the Internal Review Officer dated October 2, 2006.

Dated at Winnipeg this 28th day of July, 2008.

MEL MYERS, Q.C.