

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by K.T.
AICAC File No.: AC-04-63**

PANEL: Ms Yvonne Tavares

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

HEARING DATE: May 5, 2009

ISSUE(S): Entitlement to Income Replacement Indemnity benefits beyond September 7, 2003.

RELEVANT SECTIONS: Section 110(1)(c) 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 Appellant, K.T., is appealing the Internal Review Decision dated February 27, 2004, with regards to her entitlement to Income Replacement Indemnity ("IRI") benefits beyond September 7, 2003. The appeal hearing was held on May 5, 2009 commencing at 10:30 a.m. The Appellant did not attend the hearing or provide any written submissions to the Commission in support of her appeal.

At the outset of the hearing, it was determined that the Appellant had received notice of the hearing by virtue of her signature claiming the Xpresspost letter (containing the Notice of

Hearing from the Commission) from Canada Post. As a result, the Commission proceeded with the hearing of the appeal.

Upon a consideration of the totality of the evidence before it, the Commission finds that the Appellant has not established, on a balance of probabilities, that she is entitled to IRI benefits beyond September 7, 2003. The onus of proof in this appeal is on the Appellant to establish that the Internal Review Decision was in error. The Commission finds that the Appellant has not met the onus of proof required in this appeal.

As a result, the Appellant's appeal is dismissed and the Internal Review Decision dated February 27, 2004 is confirmed.

Dated at Winnipeg this 7th day of May, 2009.

YVONNE TAVARES