

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by A.S.
AICAC File No.: AC-05-126**

PANEL: Ms. Yvonne Tavares

APPEARANCES: The Appellant, A.S. was not present at the appeal hearing; Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Kirk Kirby.

HEARING DATE: April 14, 2009

ISSUE(S): Entitlement to Income Replacement Indemnity Benefits beyond September 10, 2002.

RELEVANT SECTIONS: Section 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 Appellant, A.S., is appealing the Internal Review Decision dated April 8, 2005, with regards to the termination of his income replacement indemnity ("IRI") benefits. The appeal hearing was held on April 14, 2009 commencing at 9:30 a.m. The Appellant did not attend the hearing or provide any written submissions to the Commission in support of his appeal.

At the outset of the hearing, it was determined that the Appellant had received notice of the hearing by virtue of his 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 he was not physically capable of returning to his job as a [text deleted] as of September 10, 2002 due to his motor vehicle accident-related injuries. The Commission finds that the medical evidence on the Appellant's file establishes, on a balance of probabilities, that by September 10, 2002, the Appellant had recovered from his motor vehicle accident-related injuries to the extent that he was capable of returning to his pre-accident occupation as a [text deleted].

As a result, the Appellant's appeal is dismissed and the Internal Review Decision dated April 8, 2005 is confirmed.

Dated at Winnipeg this 15th day of April, 2009.

YVONNE TAVARES