

Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by J.H.
AICAC File No.: AC-09-39

PANEL: Mr. Mel Myers, Q.C.

APPEARANCES: The Appellant, J.H., was represented by I.H.;
Manitoba Public Insurance Corporation ('MPIC') was
represented by Mr. Terry Kumka.

HEARING DATE: May 7, 2009

ISSUE(S): Consideration of new information

RELEVANT SECTIONS: Sections 170(1) and 171(1) 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.**

Decision

A Case Conference was held on May 7, 2009 in respect of an appeal filed by the Appellant objecting to the failure by MPIC to process a request to reconsider new information in respect of the Appellant's claim for reinstatement of IRI pursuant to Section 171(1) of the MPIC Act. After hearing submissions from both parties the Commission dismissed the Appellant's appeal on the grounds that the Commission did not have jurisdiction to hear this appeal because the Appellant had not filed a claim for compensation with MPIC pursuant to Section 170(1) of the Act. As a result there is no obligation by MPIC to process the Appellant's claim.

Dated at Winnipeg this 21st day of May, 2009.

MEL MYERS, Q.C.

Notice

Appeal to Court of Appeal on Question of Law or Jurisdiction

Appeal to Court of Appeal

187(1) The Appellant or the Corporation may appeal the decision of the Commission to The Court of Appeal.

Appeal with Leave

187(2) An appeal under Subsection (1) may be taken only on a question of jurisdiction or of law and only with leave obtained from a Judge of The Court of Appeal.

Application for Leave to Appeal

187(3) An application for leave to appeal shall be made within 30 days after the Applicant receives a copy of the decision of the Commission, or within such further time as the Judge allows.

Commission Entitled to be Heard

187(4) The Commission is entitled to be heard, by counsel or otherwise, on the argument of an application for leave to appeal and on an appeal.

Order of Commission Stayed

187(5) An appeal from a decision of the Commission stays the decision pending the hearing of the appeal, unless a Judge of The Court of Appeal orders otherwise.

Powers of Court on Appeal

187(6) The Court of Appeal on hearing the appeal may

- (a) make any decision that in its opinion ought to have been made;
- (b) quash, vary or confirm the decision of the Commission; or
- (c) refer the matter back to the Commission for further consideration in accordance with any direction of the Court.

Decision Not Subject to Appeal to Court

188 Except as provided in this Part, a decision of the Corporation or the Commission is final and binding and not subject to appeal or review by a Court.