

Automobile Injury Compensation Appeal Commission

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RESPECTING THE APPEAL OF: [the Appellant]

AICAC File No.: AC-07-17

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

Decision

The Automobile Injury Compensation Appeal Commission held a pre-hearing on: March 25, 2008. [The Appellant] [text deleted] did not attend the pre-hearing, nor did she submit any further evidence in support of her appeal. Ms Pardip Nunrha, legal counsel for Manitoba Public Insurance Corporation ('MPIC') attended the hearing.

The Commission noted that the Notice of Hearing set for March 25, 2008 was sent by regular mail and by Xpresspost to the Appellant at [Text deleted], [Text deleted], Manitoba, which is the address set out in the Notice of Appeal. The notice of the pre-hearing meeting was also sent to MPIC.

The Commission advised MPIC's legal counsel that the Commission's records indicate that on March 17, 2008 the Appellant telephoned the Commission and spoke to a Commission Officer and advised her that she had received the Notice of Hearing and that she does not want to be bothered by the Commission and she was under a lot of stress. The Commission records further indicated that the Commission's Officer provided this information to a Commission Appeals Officer.

On March 19, 2008 the Appeals Officer contacted the Appellant to discuss the status of the pre-hearing meeting. The Appellant informed the Appeals Officer that the Claimant Adviser Office had advised her that she would not be successful in her appeal and, as a result, she would not be further participating in her appeal. In response to a request by the Appeals Officer, the Appellant advised that she would not be signing a withdrawal of the appeal form and did not wish to hear about this matter any further.

MPIC's legal counsel made a submission to the Commission asserting that the Appellant had abandoned her appeal and, as a result, the appeal should be dismissed. She further submitted that:

1. the Appellant failed to establish, on a balance of probabilities, that there was a causal connection between the Appellant's depressive symptoms and the motor vehicle accident which occurred on February 10, 2002.
2. as a result, the Commission should dismiss the Appellant's appeal and confirm the Internal Review Officer's decision dated January 8, 2007.

Decision

The Commission, after considering the submission of MPIC's legal counsel, and after reviewing the documentary evidence on file, determined that:

1. The Appellant failed to establish, on a balance of probabilities, that there was a causal connection between the Appellant's depressive symptoms and the motor vehicle accident which occurred on February 10, 2002.
2. The Appellant did not intend to pursue her appeal because she had received advice from the Claimant Adviser Office that she would not be successful in her appeal and, as a result, abandoned her appeal

By authority of Section 184(1) of The Manitoba Public Insurance Corporation Act ('MPIC Act') the Commission dismisses the Appellant's appeal and confirms the decision of MPIC's Internal Review Officer, bearing date January 8, 2007.

Dated this 30th day of April, 2008.

Chief Commissioner

* **Please see attached Notice.**

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.