

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-11-38**

PANEL: Mr. Mel Myers, Q.C.

APPEARANCES: The Appellant, [text deleted], appeared on her own behalf; Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Andrew Robertson.

HEARING DATE: May 20, 2011

ISSUE(S): To determine if the Appellant has a reasonable excuse for the late filing of her Notice of Appeal.

RELEVANT SECTIONS: Section 174(1) of The Manitoba Public Insurance Corporation Act ('MPIC Act')

Reasons For Decision

[The Appellant] was involved in a motor vehicle accident on August 27, 2009. As a result of the accident the Appellant suffered injuries and requested reimbursement of expenses for medical and paramedical care. The Internal Review Officer issued a decision on September 15, 2010 denying the Appellant's request for reimbursement of these costs. The Appellant filed a Notice of Appeal with the Commission dated February 17, 2011.

Section 174(1) of the MPIC Act requires that an Appellant may within 90 days after receiving notice of a Review Decision from MPIC, or within such further time as the Commission may allow, appeal the Review Decision to the Commission.

The Commission noted that the Appellant's appeal was filed 148 days beyond the 90 day period as set out in Section 174(1). The Commission determined that a Hearing would be held to decide if the Appellant had a reasonable excuse for the late filing of her Notice of Appeal. This Hearing took place on Friday, May 20, 2011 in the presence of the Appellant and Mr. Andrew Robertson, legal counsel for MPIC.

In her submission, the Appellant indicated that she was treated by both her dentist and a prosthodontist in respect of injuries she sustained to her teeth in the motor vehicle accident. The Appellant submitted that there was some miscommunication and confusion by the prosthodontist as to the work that her dentist had to perform and, as a result there was a delay in her part in filing the Notice of Appeal.

After considering the comments of MPIC's legal counsel, the Commission concluded that the Appellant had a reasonable excuse for the late filing of her Notice of Appeal. The Appellant's Notice of Appeal was a lengthy written submission setting out the difficulties she has had in respect of her injuries arising out of the motor vehicle accident. The Commission is satisfied that she was clearly confused about the treatments that were being provided by both her dentist and her prosthodontist and this confusion contributed to her delay in filing a timely Notice of Appeal. For this reason the Commission accepts the Appellant's explanation for the delay in filing the Notice of Appeal and pursuant to Section 174(1) of the Act extends the time for the Appellant to

file her appeal of the Internal Review Decision to the Commission. As a result the Commission will be setting this appeal down for a hearing and will notify the parties as to the date of the hearing in due course.

Dated at Winnipeg this 26th day of May, 2011.

MEL MYERS, Q.C.