

Automobile Injury Compensation Appeal Commission

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RESPECTING THE APPEAL OF: [the Appellant]
AICAC File No.: AC-11-113

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

APPEARANCES: **The Appellant, [text deleted], appeared on her own behalf; Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Cynthia Lau.**

HEARING DATE: **July 12, 2012**

ISSUE: **Whether the Appellant's Income Replacement Indemnity benefits were properly terminated March 6, 2011.**

Decision

At the outset of the hearing, the Appellant confirmed that she returned to her full-time employment as a Health Care Aide on March 7, 2011. Since that time, she has continued to hold that employment, despite missing some sporadic days at work due to her injuries. Section 8 of Manitoba Regulation 37/94 provides that:

Meaning of unable to hold employment

8 A victim is unable to hold employment when a physical or mental injury that was caused by the accident renders the victim entirely or substantially unable to perform the essential duties of the employment that were performed by the victim at the time of the accident or that the victim would have performed but for the accident.

Accordingly, upon a careful review of the documentary evidence made available to the Commission, and upon hearing the submissions made by the Appellant, [text deleted], and by counsel on behalf of the Manitoba Public Insurance Corporation ('MPIC'), the Commission finds that:

1. The Appellant is substantially able to perform the essential duties of her employment, as she has in fact been carrying out those duties since March 7, 2011.
2. The Appellant's income replacement indemnity benefits were properly terminated by MPIC pursuant to Section 110(1)(a) of the MPIC Act, as the Appellant was able to hold the employment that she held at the time of the accident on March 7, 2011.

Therefore, by the authority of Section 184(1) of The Manitoba Public Insurance Corporation Act, the Commission orders that:

- A. the Appellant's appeal be dismissed; and
- B. the decision of MPIC's Internal Review Officer, bearing date June 24, 2011 be, therefore, confirmed.

Dated this 17th day of July, 2012

Deputy 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.