

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-05-143**

PANEL: Mr. Mel Myers, Q.C., Chairperson
Ms Sandra Oakley
Ms Carole Wylie

APPEARANCES: The Appellant, [text deleted], was not present at the appeal hearing;
Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Dean Scaletta.

HEARING DATE: October 30, 2007

ISSUE(S): Entitlement to further permanent impairment benefits

RELEVANT SECTIONS: Section 127 of *The Manitoba Public Insurance Corporation Act* ('MPIC Act') and Schedule A, Division 12 of Manitoba Regulation 41/94

AICAC 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 appeal hearing in this matter was scheduled to commence on October 30, 2007 at 9:30 o'clock in the forenoon at the Commission office. The Appellant did not attend at that time and, as a result, the Commission adjourned the hearing until 10:00 o'clock to give the Appellant an opportunity of attending the hearing. An officer of the Commission attempted to contact the Appellant by telephone but the telephone number provided by the Appellant previously was no longer in service and the Commission was unable to contact the Appellant.

MPIC's legal counsel, Mr. Dean Scaletta, was present at the commencement of the hearing at 9:30 and at 10:00 when the Commission reconvened the hearing. The Commission was advised by [text deleted], the Commissioners' Secretary, that the Notice of Hearing (a copy of which is attached hereto and marked Exhibit A) in respect of this appeal, dated September 12, 2007, was forwarded by Xpresspost by Canada Post to the Appellant and the Commission received a print-out from Canada Post that the Appellant was served with a copy of the Notice of Appeal on September 25, 2007.

The Commission therefore decided to proceed with the Appeal hearing and received a written submission from MPIC's legal counsel (a copy of which is attached hereto and marked Exhibit B). MPIC's legal counsel reviewed his written submission and indicated that the Internal Review Officer, in her decision dated May 19, 2005 correctly determined that there was no causal connection between the Appellant's complaints to his lower and any injuries he sustained in the motor vehicle accident. MPIC's legal counsel further submitted that the Appellant had been fully and properly compensated for the injuries to his right knee and buttock and that any award for impaired vestibular function was not supported by the evidence.

The Commission, after considering the submission of MPIC's legal counsel, an upon examination of the documentary evidence filed in these appeal proceedings, finds that the Appellant has failed to establish, on the balance of probabilities, his entitlement to further permanent impairment benefits pursuant to the provisions of Section 127 of the MPIC Act and

Schedule A, Division 12 of Manitoba Regulation 41/94. The Commission therefore dismisses the Appellant's appeal and confirms the decision of the Internal Review Officer dated May 19, 2005.

Dated at Winnipeg this 7th day of November, 2007.

MEL MYERS, Q.C.

SANDRA OAKLEY

CAROLE WYLIE