

**Automobile Injury Appeal Commission
Province of Saskatchewan**

Citation: *R.Y. v. Saskatchewan Government Insurance,*
2004 SKAIA 058
Date: 20041230
File: 001 of 2004

BETWEEN

R.Y., Applicant

and

Saskatchewan Government Insurance, Respondent

Appearances:

Peter V. Abrametz, for the Applicant
Dale Brown, for the Respondent

Before: **Beverly Cleveland, Chair**
Joy Dobko, Commission Member
Marjory Gammel, Commission Member

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

Heard at Prince Albert, Saskatchewan
November 23, 2003

DECISION

[1] This decision was delivered orally at Prince Albert, SK on November 23, 2004 with written reasons to follow.

[2] The Appellant, R.Y., appeals a decision of Saskatchewan Government Insurance (“SGI”) dated April 24, 2003 that he was not entitled to further income benefits because he was regularly incapable of holding employment before the date of loss on December 4, 2000.

[3] On December 4, 2000, the Appellant was a pedestrian and struck by a motor vehicle. He sustained multiple serious injuries including fractured rib, left shoulder, leg, arm and pelvis.

[4] This appeal came on for hearing at 9:00 a.m., November 23, 2004 in Prince Albert, SK. Dale Brown, solicitor, appeared on behalf of SGI. Neither the Appellant nor his solicitors, Peter A. Abrametz and Peter V. Abrametz were in attendance at the time the hearing was scheduled to start. Peter V. Abrametz was contacted by the Commission clerk by telephone at 9:20 a.m. and stated he was unaware of the hearing. He advised he was required to be in Provincial Court shortly but that he would appear before the Commission in approximately ½ hour.

[5] Peter V. Abrametz arrived at 10:30 a.m. and confirmed the Notice of Hearing and appeal package (record of documents) were received by his offices. Mr. Abrametz explained although he is solicitor of record that his son, Peter A. Abrametz, was given the file as is their usual office practise for appearances before this Commission. The file was found on Peter A. Abrametz’s desk. Mr. Abrametz, Sr. advised he would now be assuming responsibility for the file.

[6] Mr. Abrametz, Sr. said the file notes showed the last contact with the Appellant was on September 16, 2004. Mr. Abrametz requested an adjournment to January 20,

2005 being the date scheduled for hearing the Appellant's brother's appeal. He stated the issue was the same in each file and that both cases could be concluded in one day.

[7] Following Mr. Abrametz's request for an adjournment, it was read into the record that:

1. the Appellant scheduling form reporting counsel's availability for hearing dates was faxed to the Commission office on September 20, 2004. The signature is illegible but the header confirms it was sent by the Abrametz law firm;
2. the Appellant scheduling form reporting the Appellant's availability for hearing dates was received by the Commission office from the Appellant on September 24, 2004;
3. the Notice of Hearing was sent by registered mail to the Appellant advising the appeal hearing was scheduled for November 23, 2004, 9:00 a.m., Boardroom 3.1, MacIntosh Mall, 800 Central Ave., Prince Albert, SK. The Appellant accepted service on October 4, 2004;
4. the same Notice of Hearing was sent by regular mail to Peter A. Abrametz on September 28, 2004;
5. the appeal package (record of documents) was sent by regular mail to SGI, the Appellant and Peter A. Abrametz on October 20, 2004;
6. file note by Mike Wowchuk, Appeal Coordinator, on November 17, 2004 recorded his telephone conversation with [E] at the Abrametz law offices confirming the list of witnesses for SGI and the Appellant. The note reads that [E] was not familiar with the names of the witnesses but if there were any problems their offices would call the Commission office.

[8] This is not the first time that an adjournment has been requested because counsel from this law firm have not been prepared to proceed on the day of the hearing. The Appellant did not appeal nor did counsel, Peter A. Abrametz, who had carriage of the file despite both having received the Notice of Hearing and the appeal package including the complete record of documents. Further, the Abrametz law office was contacted the week before the hearing to confirm the list of witnesses intended to be called by both parties.

[9] Peter A. Abrametz had no contact with his client for two months prior to the scheduled date of the hearing and Peter V. Abrametz was not in a position to proceed without a client or effectively without instructions. In view of all of the above, we do not find Mr. Abrametz's explanation is a reasonable excuse in this instance. Poor or lack of communication between lawyers and/or staff at the Abrametz law office is not our concern.

[10] Mr. Abrametz's request for an adjournment is denied and the appeal is dismissed pursuant to s. 97(1)(b) of the *Personal Injury Benefit Regulations*:¹

Failure to attend

97(1) If written notice of the time, date and place of the hearing has been given to the claimant and the claimant fails to attend the hearing, the appeal commission may:

- (a) hear and decide the appeal in the absence of the claimant;
- (b) dismiss the appeal without conducting the hearing; or
- (c) grant an adjournment and assign a new time, date and place for the hearing.

DATED at Regina, Saskatchewan, this 29th day of December 2004.

Bev Cleveland, Chair

Joy Dobko, Commission Member

Majory Gammel, Commission Member

¹ c. A-35, Reg 3 as amended