

Automobile Injury Appeal Commission

Province of Saskatchewan

Citation: *N.S. v. Saskatchewan Government Insurance,*
2007 SKAIA 100
Date: 20071119
File: 049 of 2007

BETWEEN

N.S., Applicant

and

Saskatchewan Government Insurance, Respondent

Appearances:
No one for the , Applicant
Dale Brown, for the Respondent

Before: **Jane Lancaster, Q.C., Chair**
Al Knippel, Commission Member
Barbara Tomkins, 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 13, 2008

DECISION

[1] The Appellant, N.S., was injured in a vehicle accident on September 8, 2005. She applied for and received benefits under Part VIII – the no-fault provisions - of *The Automobile Accident Insurance Act*.

[2] By decision letter dated April 20, 2007, SGI advised the Appellant as to its calculation of permanent impairment benefits in respect of her injuries. The Appellant appealed this decision and the matter was set for hearing on November 13, 2007 in Prince Albert.

[3] Coincidentally, SGI sent a second letter on April 20, 2007 that suggested that all appropriate benefits had been paid and summarized the amounts paid out to the Appellant or on her behalf since her accident. Notwithstanding the indication that all benefits that would be payable had been paid, this letter was not framed as a decision letter in that it did not include information regarding a claimant's right to appeal or seek mediation.

[4] A review of the Appellant's Application to Appeal suggests that she understood and intended to appeal SGI's decision that all benefits had been paid; she noted that she believed that she required further rehabilitation.

[5] Notwithstanding the second April 20, 2007 letter and her purported appeal, SGI continued to provide benefits to the Appellant for and relating to her rehabilitation until September 21, 2007 when SGI sent a decision letter terminating those benefits.

[6] The claimant has not appealed SGI's September 21, 2007 decision and the time for doing so has not yet expired.

JURISDICTION

[7] The Commission derives its jurisdiction from section 191(1) of the *Act* which provides as follows:

191(1) A claimant may appeal a decision of the insurer pursuant to this Part to either the Court of Queen's Bench or the appeal commission within the later of:

(a) 90 days after the date of insurer's written decision; and

(b) if a claimant has requested mediation pursuant to section 190, 60 days after the date [of] the mediator's written statement pursuant to subsection 190(8) declaring that the mediation is completed.

[8] Given the facts above, the Commission has jurisdiction in respect of the Appellant's appeal against the Permanent Impairment decision set out in SGI's April 20, 2007 letter in that regard. In the event of an appeal within legislated time frames, the Commission will have jurisdiction regarding SGI's September 21, 2007 decision to terminate rehabilitation benefits.

[9] It is not necessary that we comment or reach conclusions as to the Commission's jurisdiction, if any, in respect of the Appellant's purported appeal of SGI's second April 20, 2007 letter.

ANALYSIS

[10] The Appellant did not attend for her hearing at the appointed time this date or during over one-half hour thereafter. A review of Commission administrative records shows that a member of our staff spoke to the Appellant less than a week prior and that she was aware of the date and place of her hearing. Inquiries this date to two telephone numbers provided by the Appellant did not assist us in locating the Appellant. Finally, the Appellant did not contact the Commission office to advise that she would be delayed or unable to attend the hearing.

[11] In these circumstances, the Commission has the discretion under section 97(1) of the *Personal Injury Benefit Regulations* to hear and decide the appeal in the Appellant's absence, dismiss the appeal without conducting a hearing or adjourn the appeal.

[12] We are satisfied that the Appellant was aware of the time and place of appeal and that she did not contact the Commission office to advise that she would not appear at her hearing. In the circumstances, her appeal will be dismissed pursuant to section 97(1)(b) of the Regulations.

[13] Given that SGI has provided a decision letter in September 2007 specifically directed to the termination of rehabilitation benefits and given that the time for appeal of

that decision has not expired, the dismissal today relates only to the matter of benefits for permanent impairment.

CONCLUSION

[14] SGI's decision letter dated September 20, 2007 regarding the calculation of benefits for permanent impairment is confirmed.

Dated at Regina, Saskatchewan, on November 19, 2007.

Jane Lancaster, Q.C., Chair

Al Knippel, Commission Member

Barbara Tomkins, Commission Member