

**Automobile Injury Appeal Commission  
Province of Saskatchewan**

**Citation:** *D.R. v. Saskatchewan Government Insurance,*  
2008 SKAIA 021  
**Date:** 20080402  
**File:** 085 of 2007

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**BETWEEN**

**D.R., Applicant**

**and**

**Saskatchewan Government Insurance, Respondent**

**Appearances:**  
**D.R., Applicant, not in attendance**  
**Allan McLeod, for the Respondent**

***Before:* Jane Lancaster, Q.C., Chair**

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

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Heard at Regina, Saskatchewan  
April 1, 2008

## DECISION

[1] The Appellant, D.R., was injured in a motor vehicle accident on June 26, 2003. He applied and received benefits under Part VIII – the no fault provisions – of *The Automobile Accident Insurance Act*.

[2] By decision letter dated September 11, 2006, SGI advised the Appellant that they were not prepared to provide him with funding for income replacement as medical information showed that his early retirement was not due to the motor vehicle accident.

[3] The Appellant requested mediation which proceeded in December 2006 and was formally discontinued by the mediator by letter dated June 27, 2007.

[4] The Appellant then appealed the SGI's decision letter to the Automobile Injury Appeal Commission. This appeal was received by the Automobile Injury Appeal Commission on August 13, 2007.

## JURISDICTION

[5] 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.

[6] Given the facts above, the Commission has jurisdiction in respect of the Appellant's appeal against the Income Replacement decision set out in SGI's September 11, 2006 letter.

## FACTS AND FINDINGS

[7] The Appellant was provided a Notice of Hearing dated January 4, 2008. This Notice of Hearing provides information including the date, time and place of the hearing which was

set for February 14, 2008 at 9:00 a.m. in Prince Albert, Saskatchewan. The letter also advised the Appellant that, should he fail to attend the hearing, the Commission might:

- Proceed with the hearing and render a decision in his absence; or
- Dismiss the appeal without conducting the hearing; or
- Depending on the circumstances brought to the Commission's attention, grant an adjournment

(The above alternatives are set out in section 97 of *The Personal Injury Benefits Regulations*.)

[8] The Commission reviewed the history of contact with the Appellant and the following information was provided into the record:

- The Appellant contacted the Automobile Injury Appeal Commission and requested an adjournment of his February 14, 2008 hearing and his request was granted. The hearing was then scheduled to April 1, 2008, commencing at 9:00 a.m. in Prince Albert, Saskatchewan.
- Administrative staff contacted the Appellant by telephone on March 25, 2008 to advise him of the names of the two witnesses that SGI proposed to call at the hearing.
- The Appellant advised the clerk that he did not intend to show up for the hearing on April 1, 2008. He was reminded of the consequences of not showing up and also advised that the hearing could be rescheduled to be conducted by telephone if that would assist the Appellant in attending.
- On March 25, 2008, Nadine Johnson, Manager of Operations for the Automobile Injury Appeal Commission sent a registered letter to the Appellant advising him that his hearing would be by telephone on April 1, 2008 at 9:00 a.m. and that he would be contacted by the office at his home telephone number. A Notice of a Canada Post receipt showed that this letter was delivered to the Appellant on March 28, 2008 and was signed for by the Appellant.
- Sasktel teleconference operator attempted on several occasions from 9:00 a.m. to 9:20 a.m. to reach the Appellant and there was no answer. Administrative Staff

confirmed that there was no telephone message from the Appellant on April 1, 2008 nor after he had received the March 25, 2008 letter.

## CONCLUSION

[9] The Commission is satisfied that the Appellant was given written notice of the time, date and the fact that the hearing would be conducted by telephone conference.

[10] Pursuant to section 97(1)(b) of *The Personal Injury Benefits Regulations*, the Commission dismisses the Appellant's appeal without conducting a hearing.

**Dated** at Saskatoon, Saskatchewan, on April 2, 2008.

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Jane Lancaster, Q.C., Chair