

**Automobile Injury Appeal Commission  
Province of Saskatchewan**

**Citation:** *O.U. v. Saskatchewan Government  
Insurance, 2008 SKAIA 031*  
**Date:** 20080616  
**File:** 064 of 2005

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**BETWEEN**

**O.U., Appellant**

**and**

**Saskatchewan Government Insurance, Respondent**

**Appearances:**  
**No appearance for the Appellant**  
**Allan McLeod, for the Respondent**

**Before:** Joy Dobko, Chair  
Darleen Topp, 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.**

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Heard at Saskatoon, Saskatchewan  
May 14, 2008

## DECISION

[1] The Appellant, O.U., appealed to the Automobile Injury Appeal Commission (the “Commission”) against Saskatchewan Government Insurance’s decision which provided permanent impairment benefits for broken ribs. A hearing of the appeal was scheduled in Saskatoon, Saskatchewan at 9:00 a.m. on May 14, 2008. The Appellant did not attend at the scheduled time.

[2] We reviewed the Commission office’s record of contact with the Appellant to satisfy ourselves that the Appellant had notice of the hearing.

[3] On February 11, 2008, the Appellant contacted the Commission office advising that she had received the scheduling forms for the hearing. She was asked to send the completed forms back to the Commission office so that a date could be set for the hearing.

[4] On March 12 and 17, 2008, the Commission office contacted the Appellant and left her a voicemail message asking her to return the completed scheduling forms. The completed forms were not returned to the Commission office.

[5] On March 24, 2008, the Commission office set a date for the hearing and the notice of hearing was sent to the Appellant. The Commission has in its possession a copy of a letter addressed to the Appellant, dated March 24, 2008. In the letter, the Appellant is informed of the date, time and place of the hearing. The letter also advised the Appellant that, should she fail to attend the hearing, the Commission might:

- proceed with the hearing and render a decision in her absence;
- dismiss the appeal without conducting the hearing; or
- depending on circumstances brought to the Commission’s attention, grant an adjournment.

These alternatives are set out in section 97 of *The Personal Injury Benefits Regulations*.

[6] In addition, the Commission has in its possession a Canada Post receipt showing that the letter was delivered on March 26, 2008 and that it was signed for by the

Appellant. The Commission is satisfied, therefore, that the Appellant was given written notice of the time, date and place of the hearing.

[7] In preparation for the hearing, the Commission office attempted to contact the Appellant on May 8, 2008 and at that time the Appellant's telephone was no longer in service. On May 12, 2008, the Commission office contacted the Appellant's daughter in Alberta and left a voicemail message advising of the date and time of the hearing and requesting that the message be passed on to the Appellant. In addition, on the morning of the hearing, the Commission office contacted and spoke with the Appellant's daughter and asked if she could contact the Appellant and have her call the Commission at the hearing location. The Appellant did not contact us.

[8] The Commission is inclined to dismiss the Appellant's appeal without conducting a hearing in accordance with section 97(1)(b) of the *Personal Injury Benefit Regulations*. However, on the morning of the hearing the Commission office was advised by the Appellant's daughter that the Appellant had recently learned of some serious personal medical problems. With that in mind, we believe the Appellant may have a valid reason for her failure to attend and we believe that she should be given an opportunity to explain her absence should she wish.

[9] Accordingly, the Commission orders that the Appellant's appeal in this matter is dismissed, subject to the following:

- a) The Commission office will mail the Appellant two copies of this decision, one to her last known address and the other to her daughter in Calgary, along with a covering letter advising the Appellant that she will have thirty days from the date of the cover letter to contact the Commission office, if she wishes, to provide an explanation for her absence.
- b) The Commission Office will use their best efforts to ensure that a copy of the decision is received by the Appellant but Canada Post receipt confirmation of the decision is not necessary in light of the efforts made by the Commission office prior to and on the morning of the hearing to advise the Appellant of the date and time of the hearing.

- c) In the event an explanation is offered, a date will be set for all parties to discuss the explanation and to determine whether the dismissal should be entered or whether the hearing should be rescheduled.
- d) Failing such contact by the Appellant within the thirty day period, the appeal is dismissed.

[10] If the dismissal becomes final pursuant to the paragraph above, the Appellant shall not be entitled to her costs. In the event that the hearing is rescheduled, costs will be determined at the time of the rescheduled hearing.

**Dated** at Saskatoon, Saskatchewan, on June 16, 2008.

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Joy Dobko, Chair

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Darleen Topp, Commission Member

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Marjory Gammel, Commission Member