

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-06-174**

PANEL: Ms Yvonne Tavares, Chairperson
Mr. Paul Johnston
Ms Linda Newton

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

HEARING DATE: June 23, 2009

ISSUE(S): Entitlement to further Income Replacement Indemnity benefits

RELEVANT SECTIONS: Section 110(2) of The Manitoba Public Insurance Corporation Act ('MPIC Act')

AICAC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE APPELLANT'S PRIVACY AND TO KEEP PERSONAL INFORMATION CONFIDENTIAL. REFERENCES TO THE APPELLANT'S PERSONAL HEALTH INFORMATION AND OTHER PERSONAL IDENTIFYING INFORMATION HAVE BEEN REMOVED.

Reasons For Decision

The Appellant, [text deleted], is appealing the Internal Review Decision dated August 8, 2006, with regards to her entitlement to a continuation of income replacement indemnity ("IRI") benefits pursuant to Section 110(2) of the MPIC Act. The appeal hearing was held on June 23, 2009 commencing at 9:30 a.m. The Appellant did not attend the hearing or provide any written submissions to the Commission in support of her appeal.

At the outset of the hearing, it was determined that a Notice of Hearing had been sent to the Appellant by regular letter mail on March 20, 2009, to the last mailing address provided by the Appellant. The letter was not returned to the Commission. Pursuant to Section 184.1(2), the Appellant is deemed to have received the notice on the fifth day after the day of mailing. As a result, it was determined that the Appellant had received notice of the hearing and the Commission proceeded with the hearing of the appeal.

Upon a consideration of the totality of the evidence before it, the Commission finds that the Appellant has not established, on a balance of probabilities, that she lost her pre-motor vehicle accident employment as a consequence of the accident of October 20, 2000. As a result, we find that the Appellant has therefore not established an entitlement to a continuation of her IRI benefits pursuant to Section 110(2) of the MPIC Act.

The documentary evidence before the Commission establishes the following:

1. The Appellant moved to [text deleted] in December 2001 to accompany her husband, [text deleted] who had just finished his doctorate and was undertaking post-doctoral studies at the University of [text deleted].
2. Effective January 25, 2002, her employment with the [text deleted] was terminated because the Appellant had moved from the Province of Manitoba.
3. Prior to January 25, 2002, the Appellant's position with the [text deleted] continued to be held for her.

Upon a consideration of these facts, the Commission finds that prior to January 25, 2002, the Appellant had a job to return to with the [text deleted]. Her employment was terminated on the basis that she had moved away from the Province. There was no evidence before the

Commission that the Appellant's job was terminated for any reason connected to the motor vehicle accident of October 20, 2000.

Section 110(2) of the MPIC Act provides that a full-time earner or a part-time earner who loses his or her employment because of the accident is entitled to a continuation of IRI benefits for certain periods of time. Since the Commission has determined that the Appellant did not lose her job due to the motor vehicle accident, she is not entitled to a continuation of IRI benefits pursuant to Section 110(2) of the MPIC Act.

Accordingly, the Appellant's appeal is dismissed and the decision of MPIC's Internal Review Officer dated August 8, 2006 is confirmed.

Dated at Winnipeg this 8th day of July, 2009.

YVONNE TAVARES

PAUL JOHNSTON

LINDA NEWTON