

**Automobile Injury Compensation Appeal Commission**

**IN THE MATTER OF an Appeal by [the Appellant]  
AICAC File No.: AC-10-011**

**PANEL:** Ms Yvonne Tavares, Chairperson  
Mr. Neil Margolis  
Ms Heather Mitchell

**APPEARANCES:** The Appellant, [text deleted], was represented by Mr Jackson Mugerwa;  
Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Dianne Pemkowski.

**HEARING DATE:** December 6, 2012

**ISSUE(S):** Entitlement to Personal Injury Protection Plan benefits.

**RELEVANT SECTIONS:** Section 71(1) of The Manitoba Public Insurance Corporation Act ('MPIC Act')

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

**Reasons For Decision**

The Appellant, [text deleted], has filed this appeal to the Commission from a decision of the Internal Review Officer dated October 19, 2009.

The facts giving rise to this appeal may be briefly summarized as follows:

1. On June 8, 2006, the Appellant was operating her vehicle northbound on [text deleted] in [Manitoba].
2. The Appellant stopped her vehicle on the bridge and a dispute ensued between herself and the motorist immediately behind her. The Appellant claims that when she stopped

her vehicle, she got out of her vehicle and she was struck on two occasions by the other motorist's automobile, thereby suffering injuries. As a result of those injuries, and the incident described, the Appellant claimed benefits from MPIC under the Personal Injury Protection Plan ("PIPP").

3. In a decision dated November 7, 2006, MPIC's case manager found that the Appellant's injuries were not caused by a motor vehicle accident and therefore there was no entitlement to benefits for the Appellant under PIPP.
4. The Appellant sought an Internal Review of the case manager's decision. In a decision dated October 19, 2009, the Internal Review Officer confirmed the case manager's decision and dismissed the Appellant's Application for Review. The Internal Review Officer found that the Appellant had not established, on a balance of probabilities, that she sustained bodily injury in an accident that would entitle her to PIPP benefits.
5. As noted above, the Appellant appealed the Internal Review Decision dated October 19, 2009 to this Commission.

Upon a careful review of all of the medical, paramedical, and other reports and documentary evidence filed in connection with this appeal, and after hearing the submissions of counsel for the Appellant and of counsel for MPIC, the Commission finds that the Appellant has not established, on a balance of probabilities, that she sustained bodily injury in an accident as a result of the dispute which occurred on June 8, 2006 between herself and another driver. Accordingly, the Appellant is not entitled to PIPP benefits as a result of the incident on June 8, 2006.

The Commission finds that the Appellant had not discharged the onus of proving that she sustained any bodily injuries as a result of the incident on June 8, 2006. The Appellant did not

personally attend the hearing and did not testify in support of her appeal. The Commission finds that the weight of the documentary evidence before it established that a dispute occurred between the Appellant and another driver on June 8, 2006, but there were no injuries to the Appellant. Based upon the totality of the evidence before it, the Commission finds that the Appellant has not established otherwise. We are unable to conclude that the Appellant's statements throughout the file corroborate her version of events. Further, the statements of the other witnesses to the incident do not establish that the Appellant was struck by the vehicle. Lastly, the Commission is unable to conclude that the medical evidence on the file establishes that the accident described by the Appellant took place. As a result the Commission is unable to find that the Appellant suffered any bodily injury in an accident as a result of the incident of June 8, 2006.

Accordingly, the Appellant's appeal is dismissed and the Internal Review decision dated October 19, 2009 is therefore confirmed.

Dated at Winnipeg this 21<sup>st</sup> day of December, 2012.

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**YVONNE TAVARES**

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**NEIL MARGOLIS**

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**HEATHER MITCHELL**