

Automobile Injury Compensation Appeal Commission

IN THE MATTER of an appeal by [the Appellant]
AICAC File No.: AC-97-22

PANEL: Mr. J. F. Reeh Taylor, Q.C. (Chairperson),
Mr. Charles T. Birt, Q.C.
Mrs. Lila Goodspeed

APPEARANCES: Manitoba Public Insurance Corporation ('MPIC')
represented by Miss Joan McKelvey:
[Text deleted], the appellant, appeared in person.

HEARING DATE: Friday, May 2, 1997

ISSUE: Qualification for student lump sum indemnity

RELEVANT SECTION: Sections 70(1), 87(1) and 88(1) of the 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 FACTS:

[The Appellant] was involved in a motor vehicle accident on July 4, 1995 in which she sustained facial lacerations, cervical strain, rib contusion, thoracic strain and a knee contusion. At the time of the accident she was on summer vacation from part-time studies at the [text deleted]. She was not employed at the time, and testified that she had no employment prospects.

[The Appellant] first enrolled at the University of Winnipeg in September 1992, registering in 1 course with 6 credit hours which she cancelled in February, 1993. In September, 1993, she enrolled in 3 courses totalling 12 credit hours but withdrew from 1 course in February, 1994, completing a total of 9 credit hours by term end in April 1994. It was not until July 7, 1994, (three days after her accident) that [the Appellant] enrolled in 3 courses totalling 18 credit hours scheduled to commence in September 1995.

[The Appellant] testified that as a result of the injuries suffered in the accident she had developed blurred vision, headaches, had difficulty reading and concentrating and required constant sleep. She stated that, because of this condition, she was unable to follow through with her program and consequently withdrew voluntarily from all her courses in February 1995.

[The Appellant] is claiming that she is entitled to compensation as she was unable to complete her course of studies because of the injuries caused by the accident.

THE LAW:

The only issue before us is whether or not [the Appellant] was a student on a full-time basis at the time of the accident and was unable because of the accident to continue her studies.

The relevant sections of the Act which address the rights of a student injured in a motor vehicle accident are these:

Definitions

70(1) “**student**” means a victim who is 16 years of age or older and attending a secondary or post-secondary educational institution on a full-time basis at the time of the

accident:

Student at secondary, post-secondary institution

87(2)a student is considered to be attending apost-secondary educational institution on a full-time basis from the day the student is admitted by the educational institution as a full-time student in a program of that level until the day the student completes, abandons or is expelled from his or her current studies.....

Student entitled to fixed indemnity

88(1) A student is entitled to an indemnity for the time that he or she is unable, because _____ of the accident, to begin or to continue his or her current studies.....”

[The Appellant] must bring herself within the four corners of those sections if she is to qualify for the lump sum indemnity referred to in Section 88(1).

In his Internal Review decision of February 11, 1997, [text deleted], the Acting Review Officer, made a finding that [the Appellant] was not a full-time student because he interpreted the term “full-time basis” to mean 30 credit hours per academic year.

In our view, a more correct interpretation of Section 87(2) would treat as qualified a student who, by the time of the accident, has met and continues to meet the requirements for full-time student status laid down by the institution in which he or she is enrolled. A memorandum dated March 10, 1997, from [the Appellant’s] University [text deleted] advisor confirms that in order to qualify for the status of a full-time student one must be registered for courses aggregating 18 credit hours per academic year. Had [the Appellant] been a full-time student during the entire, previous

academic year with an apparent intent to continue that status during the 1994/95 academic year, her claim to have been a full-time student on July 4th, 1994, might have held more water despite the fact that she had not actually registered by the date of the accident. Upon the evidence adduced before us, however, we have to find that [the Appellant] was not attending university on a full-time basis on the date of the accident. She did not fall within the definition of “full-time basis” until she registered on July 7th, 1994, three days after the accident. As a result [the Appellant] does not qualify for compensation as a student.

In light of the foregoing finding, it becomes unnecessary for us to decide whether there is medical evidence that would support [the Appellant’s] need to withdraw from University.

DISPOSITION:

We therefore dismiss the appeal and confirm the Acting Review Officer’s decision of February 11, 1997.

Dated at Winnipeg this 5th, day of May 1997.

J.F. REEH TAYLOR, Q.C.

CHARLES T. BIRT, Q. C.

LILA GOODSPEED