



Neutral Citation: 2007 ONFSCDRS 9

FSCO A06-000511

BETWEEN:

MOHAMED MANSOURI

Applicant

and

CAA INSURANCE COMPANY (ONTARIO)

Insurer

DECISION ON A MOTION

Before: Eban Bayefsky

Heard: By telephone conference call on November 24, 2006.

Appearances: Henry Goldentuler for Mr. Mansouri
Neil Colville-Reeves for CAA Insurance Company (Ontario)

Issues:

The Applicant, Mohamed Mansouri, was injured in a motor vehicle accident on July 19, 2002. He applied for statutory accident benefits from CAA Insurance Company (Ontario) ("CAA"), payable under the *Schedule*.¹ CAA denied Mr. Mansouri's claim for income replacement benefits from October 26, 2002 and ongoing. The parties were unable to

¹ The *Statutory Accident Benefits Schedule — Accidents on or after November 1, 1996*, Ontario Regulation 403/96, as amended.

resolve their disputes through mediation, and Mr. Mansouri applied for arbitration at the Financial Services Commission of Ontario under the *Insurance Act*, R.S.O. 1990, c.1.8, as amended.

The issues in this motion are:

1. Should Mr. Mansouri's arbitration in respect of his entitlement to weekly income replacement benefits be dismissed or stayed on the basis of the court action he commenced against CAA on February 18, 2005?
2. Is either party entitled to its expenses of the motion?

Result:

1. On consent of the parties, Mr. Mansouri's arbitration is stayed pending the outcome of his court action, Court File No. 74729/05, and the parties bear the responsibility of advising the Commission of the status and outcome of Mr. Mansouri's court action.
2. On consent of the parties, the parties shall bear their own expenses of the motion.

EVIDENCE AND ANALYSIS:

CAA brought a motion to dismiss or stay Mr. Mansouri's arbitration as a result of the court action he issued against CAA on February 18, 2005. The motion commenced on November 24, 2006, at 1:00 p.m., by teleconference, and was to resume on December 1, 2006, at 2:00 p.m., by teleconference.

Prior to the resumption, the parties advised that they had resolved the motion and would be submitting an Order to be issued. On January 15, 2007, the parties submitted the consent Order. On reading the Notice of Motion, on hearing the parties' submissions and on reading the consent as filed, I am prepared to issue the attached Order.

Eban Bayefsky
Arbitrator

January 24, 2007
Date



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ARBITRATION ORDER

Under section 282 of the *Insurance Act*, R.S.O. 1990, c.I.8, as amended, it is ordered that:

1. Mr. Mansouri's arbitration is stayed pending the outcome of his court action, Court File No. 74729/05.
2. Mr. Mansouri and CAA Insurance Company (Ontario) shall bear the responsibility of advising the Financial Services Commission of the status and outcome of Mr. Mansouri's court action, Court File No. 74729/05.
3. Mr. Mansouri and CAA Insurance Company (Ontario) shall bear their own expenses of the motion.

Eban Bayefsky
Arbitrator

January 24, 2007
Date