



FSCO A11-002093

BETWEEN:

KINGSLEY OPPONG

Applicant

and

PAFCO INSURANCE COMPANY

Insurer

REASONS FOR DECISION

Before: Arbitrator Jeffrey Rogers

Heard: July 8, 2013, at the offices of the Financial Services Commission of Ontario in Toronto.

Appearances: Mr. Alexei Antonov, student-at-law, for Mazin & Associates
Ms Zeitoun Vaezzadeh, solicitor, for Pafco Insurance Company
Mr. Oppong did not attend

Issues:

The Applicant, Kingsley Oppong, alleged that he was injured in a motor vehicle accident on November 3, 2009. He applied for statutory accident benefits from Pafco Insurance Company (“Pafco”), payable under the *Schedule*.¹ Pafco refused to pay any benefits on the grounds that Mr. Oppong was not injured in an “accident” as defined in the *Schedule*.

The parties were unable to resolve their disputes through mediation, and Mr. Oppong applied for arbitration at the Financial Services Commission of Ontario under the *Insurance Act*, R.S.O. 1990, c.I.8, as amended.

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

A pre-hearing discussion was held on April 18, 2012. A hearing on the issue of whether Mr. Oppong was injured in an “accident” was scheduled, commencing on February 19, 2013. That hearing was later rescheduled, to start on July 8, 2013.

Mr. Oppong did not attend on July 8, 2013. His solicitors sought an order removing their firm as his representative. Pafco sought an order dismissing the arbitration.

Therefore, the issues in this hearing are:

1. Should Mazin & Associates be removed from the record as Mr. Oppong’s representative?
2. Should this arbitration be dismissed?

Result:

1. Mazin & Associates is removed from the record as Mr. Oppong’s representative.
2. This arbitration is dismissed.

EVIDENCE AND ANALYSIS:

Removal from the Record

The motion for removal of Mr. Oppong’s representative was originally scheduled to be heard by telephone conference call, on April 19, 2013. I adjourned the motion to be heard in person, on July 8, 2013. I was concerned that proceeding by telephone conference call restricted Mr. Oppong’s ability to participate.

Mazin & Associates filed a Motion Record containing the affidavit of Gary Mazin, which sets the unsuccessful efforts made to contact Mr. Oppong and obtain instructions. I am satisfied that Mr. Oppong was given proper notice of the motion. I am satisfied that there has been a breakdown in the solicitor/client relationship so that Mazin & Associates cannot continue to

represent Mr. Oppong. Mazin & Associates is therefore removed from the record as Mr. Oppong's representative.

Dismissal of Arbitration

Mr. Oppong was given notice of the hearing and did not attend. He provided no information upon which it could be determined that the hearing should not proceed. Mr. Oppong bears the onus of proving that he was injured in an "accident". Without that proof, this arbitration cannot succeed. Since no evidence has been presented in support of Mr. Oppong's claim, this arbitration is dismissed.

EXPENSES:

Pafco chose not to pursue its claim for expenses of the arbitration.

Jeffrey Rogers
Arbitrator

August 26, 2013

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. Mazin & Associates is removed from the record as Mr. Oppong's representative.
2. This arbitration is dismissed.

Jeffrey Rogers
Arbitrator

August 26, 2013

Date