



FSCO A13-005404

BETWEEN:

CRYSTAL HIBBERT

Applicant

and

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY**

Insurer

REASONS FOR DECISION

Before: Robert Bujold

Heard: February 6, 2015, at the offices of the Financial Services Commission of Ontario in Toronto.

Appearances: Ms. Hibbert did not appear
Bobby Tut for TRG Legal Services Professional Corporation
Sirus Biniiaz for State Farm Mutual Automobile Insurance Company

Issues:

The Applicant, Crystal Hibbert, claimed to have been injured in a motor vehicle accident on March 5, 2010. She applied for and received statutory accident benefits from the Insurer, State Farm Mutual Automobile Insurance Company (“State Farm”), payable under the *Schedule*.¹ Issues arose regarding Ms. Hibbert’s entitlement to certain benefits. The parties were unable to resolve their disputes through mediation, and Ms. Hibbert 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.

The issues in this hearing are:

1. Should Ms. Hibbert's claims be dismissed?

Result:

1. Ms. Hibbert's claims are dismissed.
2. Ms. Hibbert shall pay \$500.00 toward State Farm's expenses of the arbitration.

EVIDENCE AND ANALYSIS:

Background:

Ms. Hibbert failed to attend a pre-hearing discussion held on November 20, 2014, although properly served with a Notice of Pre-Hearing Discussion at her last known address. At the pre-hearing, Mr. Bobby Tut of TRG Legal Services Professional Corporation ("TRG") requested that TRG be permitted to withdraw as Ms. Hibbert's representative on the basis of a breakdown in the representative-client relationship. As a result of concerns regarding compliance with Rule 9 of the *Dispute Resolution Practice Code* (the "Code"), the request was denied.

The pre-hearing discussion then proceeded in Ms. Hibbert's absence. The issues were identified as the issues set out in the Application for Arbitration, and a hearing date was scheduled for February 6, 2015, at 11:00 a.m. Mr. Tut was advised that he could renew his request that TRG be permitted to withdraw as Ms. Hibbert's representative at the commencement of the hearing.

A Notice of Hearing dated November 26, 2014, confirming the February 6, 2015 hearing date, was sent to Ms. Hibbert at her last known address.

The Arbitration Hearing:

Ms. Hibbert did not attend at the offices of the Commission on February 6, 2015 at 11:00 a.m. as required by the Notice of Hearing. By 11:30 a.m., Ms. Hibbert had still not appeared.

Pursuant to Rule 37.7 of the *Code*, and being satisfied that Ms. Hibbert had been properly served at her last known address with the Notice of Hearing, the arbitration hearing proceeded in her absence.

At the outset of the hearing, Mr. Tut renewed his request that TRG be permitted to withdraw as Ms. Hibbert’s representative. Upon reviewing the materials filed, and being satisfied that there had been compliance with Rule 9 of the *Code*, I permitted TRG to withdraw as Ms. Hibbert’s representative on the basis of a serious breakdown in the representative-client relationship.

The matter then proceeded to hearing. As Ms. Hibbert did not attend to present any evidence, she failed to establish her entitlement to the benefits claimed. Ms. Hibbert’s claims were therefore dismissed.

EXPENSES:

On hearing the submissions of counsel for State Farm, I find that Ms. Hibbert shall pay \$500.00 toward State Farm’s expenses of the arbitration.

Robert Bujold
Arbitrator

March 18, 2015

Date

Financial Services
Commission
of Ontario

Commission des
services financiers
de l'Ontario



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CRYSTAL HIBBERT

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**STATE FARM MUTUAL AUTOMOBILE
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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. Ms. Hibbert's claims are dismissed.
2. Ms. Hibbert shall pay \$500.00 toward State Farm's expenses of the arbitration.

Robert Bujold
Arbitrator

March 18, 2015
Date