



FSCO A13-000623

**BETWEEN:**

**MAJID MOHSENI**

**Applicant**

**and**

**UNIFUND INSURANCE COMPANY**

**Insurer**

## **REASONS FOR DECISION**

**Before:** Arbitrator Paulina Gueller

**Heard:** In person at ADR Chambers on December 2, 2014

**Appearances:** No one attended for the Mr. Majid Mohseni  
Ms. Anne H. Fyfe attended for Unifund Insurance Company

**Issues:**

The Applicant, Mr. Majid Mohseni, was injured in a motor vehicle accident on July 22, 2010. He applied for and received statutory accident benefits from Unifund Assurance Company (“Unifund”), payable under the *Schedule*.<sup>1</sup> The parties were unable to resolve their disputes through mediation, and Mr. Mohseni applied for arbitration at the Financial Services Commission of Ontario under the *Insurance Act*, R.S.O. 1990, c.I.8, as amended.

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<sup>1</sup> *The Statutory Accident Benefits Schedule - Effective September 1, 2010, Ontario Regulation 34/10, as amended.*

The issue in this Preliminary Hearing is:

1. Should Mr. Mohseni's Application for Arbitration be dismissed?

**Result:**

1. Mr. Mohseni's Application for Arbitration is dismissed without costs.

**EVIDENCE AND ANALYSIS:**

Mr. Mohseni submitted an Application for Arbitration on January 11, 2013. He did not attend the first Pre-Hearing held before me on June 9, 2014 or the Preliminary Issue Hearing on December 1, 2014.

A letter dated June 11, 2014 was sent by regular mail and courier to Mr. Mohseni. In that letter, I informed Mr. Mohseni that a Preliminary Issue Hearing was scheduled for December 1, 2014 at 9:00 a.m., at the offices of ADR Chambers.

Pursuant to Rules 68.1 and 68.2 of the *DRPC*, I notified Mr. Mohseni that his attendance at the Preliminary Issue Hearing was mandatory and that the Application for Arbitration could be dismissed if he did not attend or if he did not file and serve his materials in writing to the other party within 20 days of the above mentioned letter.

On December 1, 2014, the Preliminary Issue Hearing was held. Ms. Fyfe, Unifund's counsel, requested the dismissal of Mr. Mohseni's Application for Arbitration.

I am satisfied that the notices to Mr. Mohseni complied with the requirements of Rule 9.1 (c) of the *DRPC* and section 6 of the *Statutory Power and Procedures Act* ("*SPPA*"). All correspondence, including the notice of the Preliminary Issue Hearing, was sent to Mr. Mohseni's address, as noted in our records.

Notwithstanding the notices and letters, Mr. Mohseni did not attend the Preliminary Issue Hearing or provide submissions in writing.

Rule 37.9 of the *DRPC* states:

*Where notice of hearing has been sent to a party and a party does not attend at an oral or electronic hearing, or participate in a written hearing, the arbitrator may proceed with the hearing in the party's absence or without the party's participation, as the case may be, and the party is not entitled to any further notice in the proceeding.*

Pursuant to Rule 37.9 of the *DRPC*, the Preliminary Issue Hearing proceeded in Mr. Mohseni's absence. Mr. Mohseni has the onus of proof to establish his entitlement to his claims. He did not attend the first Pre-Hearing and the Preliminary Issue Hearing. Therefore, I conclude that he has no interest in pursuing his claim and that he abandoned the present Arbitration proceeding.

The above mentioned reasons suffice to dismiss Mr. Mohseni's Application for Arbitration.

**EXPENSES:**

There is no cost requested before me. Therefore, I dismiss this Application for Arbitration without costs.

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Paulina Gueller  
Arbitrator

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January 5, 2015  
Date



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**BETWEEN:**

**MAJID MOHSENI**

**Applicant**

and

**UNIFUND INSURANCE COMPANY**

**Insurer**

## **ARBITRATION ORDER**

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

1. Mr. Mohseni's Application for Arbitration is dismissed without costs.

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Paulina Gueller  
Arbitrator

January 5, 2015  
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Date