

Appeal No. 70969

Province of Infection and Residence: Ontario

**IN THE MATTER OF A REQUEST FOR REVIEW  
PURSUANT TO THE  
1986-1990 HEPATITIS C SETTLEMENT AGREEMENT**

BETWEEN

THE CLAIMANT (70969)

-and-

THE ADMINISTRATOR

DATE OF DECISION: August 13, 2024

## DECISION

Appeal No. 70969

1. The Claimant applied for compensation pursuant to the 1986-1990 Hepatitis C Class Action Settlement Fund. The Administrator denied her claim. The Claimant requested that the Administrator's denial of the claim be reviewed by a Referee.
2. Initially, this review was assigned to Michael Mitchell as Referee. Mr. Mitchell held a case conference with the Claimant and Fund Counsel on February 26, 2024. At that case conference, Mr. Mitchell asked the Claimant whether she wished to engage a lawyer to represent her and whether she intended to secure a responding medical opinion to rebut the expert opinion in the record. Mr. Mitchell also asked Fund Counsel to provide an indication of what level of compensation the Claimant would be entitled to, if successful on appeal.
3. Fund counsel provided information about the range of potential compensation by email the following day.
4. On or about March 14, 2024, this review was re-assigned to me as Referee.
5. On April 2, 2024, Fund Counsel delivered Preliminary Written Submissions to the Claimant and me.
6. A case conference was convened on April 9, 2024, between the Claimant, Fund Counsel and me. At that case conference, I introduced myself to the Claimant and explained that I would be taking over the review. I asked the Claimant to confirm the following:
  - a. how she would like to proceed with the review – in writing, in person or via videoconference;
  - b. whether she intended to engage a lawyer to represent her for the appeal; and
  - c. whether she intended to submit expert evidence to respond to the expert opinion adduced by Fund Counsel.
7. The Claimant had not yet made final decisions about how she wanted to proceed. Accordingly, we scheduled another case conference for May 1, 2024, at 1:00pm to give her more time to consider her options. The Claimant was directed to provide her answers to the questions posed above at the May 1 conference. Call in details were provided by email on April 16, 2024, for that meeting.
8. Fund counsel and I joined the May 1 case conference on time. The Claimant did not join the call.
9. At 1:02 pm on May 1, 2024, I re-sent the Claimant the call in details for the meeting by email and asked her to join.
10. At 1:26 pm on May 1, 2024, I sent the Claimant an email stating that Fund Counsel and I waited on the line for her to join until 1:20 pm before ending the call. In that

email, I asked once again for the Claimant to provide her positions on the three issues in writing by email, or to reschedule the case conference at her convenience to provide her positions verbally.

11. The Claimant did not respond to this email.
12. On May 23, 2024, I sent the Claimant a letter by both email and regular mail to the address set out in the Claim file. I explained that I was concerned that she might not be receiving my emails, which is why I sent the letter by regular mail as well. I directed the Claimant to respond within 30 days of my May 23 letter, by June 24, 2024 to schedule a call to come to a final decision about how to proceed with the Appeal. I expressly cautioned the Claimant that it was important that she respond to the May 23 letter, as a failure to respond may result in the dismissal of her Appeal as abandoned.
13. I attached a delivery receipt to the May 23 email which attached the letter. I received a digital notification confirming that that the email had been delivered to the email address on file for the Claimant.
14. The Claimant did not respond to my May 23 letter or email.
15. On July 5, 2024, Fund Counsel requested an order dismissing the appeal as abandoned.
16. On July 15, 2024, I wrote to the Claimant once more by email to provide her with another chance to respond. I advised her that if she did not respond to me by July 19, 2024, her appeal would be dismissed as abandoned.
17. The Claimant did not respond to my July 15 email.
18. On August 12, 2024, I wrote a final time to the Claimant by email, advising her that in the absence of any response to emails, phone calls or mail sent by regular post, we will be treating her appeal as abandoned and closing this matter.
19. The Claimant has not responded or taken any action to progress this matter since April 9, 2024.
20. I concur with Fund Counsel that Appeal No. 70969 has been effectively abandoned.
21. Accordingly, I declare and order that this Appeal be and is hereby dismissed as abandoned.

Dated at Toronto ON, this 13<sup>th</sup> day of August, 2024



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Megan Keenberg, Referee/ Arbitrator