



FSCO A04-001811

**BETWEEN:**

**FRANK D'AMATO**

**Applicant**

**and**

**STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY**

**Insurer**

## **REASONS FOR DECISION**

**Before:** Lorne Slotnick

**Heard:** November 14, 2005, at the offices of the Financial Services Commission of Ontario in Toronto.

**Appearances:** Mr. D'Amato represented himself  
Michael P. Taylor for State Farm Mutual Automobile Insurance Company

### **Issues:**

The Applicant, Frank D'Amato, was injured in a motor vehicle accident on October 17, 2000. He applied for statutory accident benefits from State Farm Mutual Automobile Insurance Company ("State Farm"), payable under the *Statutory Accident Benefits Schedule — Accidents on or after November 1, 1996*, Ontario Regulation 403/96, as amended. The parties were unable to resolve their disputes through mediation, and Mr. D'Amato applied for arbitration at the Financial Services Commission of Ontario under the *Insurance Act*, R.S.O. 1990, c.I.8, as amended. The hearing was scheduled to start on November 14, 2005, with the main issue being Mr. D'Amato's entitlement to income replacement benefits.

The initial pre-hearing discussion in this case was held on March 24, 2005. The arbitrator who conducted the meeting noted in her pre-hearing letter of March 30, 2005 that Mr. D'Amato was disruptive and abusive, and then walked out. Another attempt at a pre-hearing was made on May 3, 2005, at which time the hearing was set for November 14-17, 2005.

Mr. D'Amato obtained representation during the summer. The pre-hearing was resumed on October 18, 2005, at the request of State Farm, to deal with outstanding production issues. Mr. D'Amato unexpectedly did not participate in that resumption but his representative, Hardev Kumar, did. At that time, Arbitrator Muir ordered Mr. D'Amato to produce documents as outlined in a letter from State Farm's counsel dated October 17, 2005. He added, "Compliance with this order will be deemed to have been achieved by Mr. D'Amato executing the authorizations as provided under cover of the October 17<sup>th</sup> letter by the end of business Friday, October 21, 2005." Arbitrator Muir said the arbitration would be stayed pending compliance.

On October 28, 2005, State Farm advised the Commission that the authorizations had still not been signed. During the next few days, it became apparent that Mr. D'Amato and Mr. Kumar had had disagreements, and the Commission received a letter from Mr. Kumar dated November 4, 2005 asking to be removed from the record. Mr. D'Amato confirmed that he no longer considers Mr. Kumar his representative. I will therefore remove Mr. Kumar from the record.

At the November 14 hearing, State Farm again advised that the authorizations had still not been signed by Mr. D'Amato. Mr. D'Amato did not disagree. Counsel for State Farm had a fresh copy of the authorizations, which he handed to Mr. D'Amato. The productions being requested by State Farm are standard fare in arbitrations. I find that Mr. D'Amato has, for no reason, failed to comply with the order of Arbitrator Muir of October 18. I therefore told the parties I would order the arbitration stayed until Mr. D'Amato complied with the order. Mr. D'Amato was advised by me that he must sign the authorizations and return them to counsel for State Farm if he wishes to

proceed with his hearing. Counsel for State Farm undertook to advise the Commission if and when the authorizations are signed and returned.

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Lorne Slotnick  
Arbitrator

November 15, 2005

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Date

Financial Services  
Commission  
of Ontario

Commission des  
services financiers  
de l'Ontario



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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. Hardev Kumar is removed from the record as Mr. D'Amato's representative.
2. This arbitration is stayed until Mr. D'Amato complies with the October 18, 2005 order of Arbitrator Muir.

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Lorne Slotnick  
Arbitrator

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November 15, 2005

Date