

**RECENT SCT DECISIONS**

# SCT finds insured cannot rely on misrepresentation of financial planner

[Link to determination](#)**Facts**

The Complainant obtained group plan insurance through his employer. He subsequently voluntarily ceased work and was automatically transferred to the personal division of the plan. Some weeks later the Complainant suffered an injury and made a claim for temporary salary continuance (TSC) benefits.

The decisions under review were that of the Insurer to:

1. deny the Complainant's claim for TSC benefits pursuant to the policy and
2. deny it misrepresented the relevant policy terms.

The decisions of the trustee were also under review insofar as the Trustee affirmed the decisions of the insurer.

It was not in dispute that the Complainant was not working when he suffered his injury. Rather, the Complainant's position was that he attended a presentation of a financial planner and elected his insurance cover based on representations made in the slideshow that the insurance provided TSC cover "not... just at work".

He also asserted that he was not notified of the requirement to be engaged in work in order to succeed in a claim prior to purchase of the TSC product. It was consequently his submission that the insurer should not be allowed to rely on the "active service" or "engaged in work" qualifier of the "Totally Disabled" definition and deny his claim.

The trustee and Insurer's position was that the Complainant was not working at the time of injury and so could not satisfy the policy definition of "Totally Disabled".

The trustee also made submissions that the Complainant was referred to the relevant policy information, in particular the "Total Disability" definition which requires the member to be working.

With respect to the claim of misrepresentation, the trustee asserted there was no relationship with the financial planner and similarly, the insurer stated that any representations made by the financial planner were not made by it.

**Held**

The Tribunal held that the insurer's decision to deny the claim on the basis that the Complainant was not working at the time he was injured was fair and reasonable in the circumstances.

With regard to the alleged misrepresentation of the financial planner, the Tribunal accepted that neither the insurer nor the trustee was responsible for the financial planner's conduct and that further, as the Complainant was provided with the relevant policy material, he would have been aware of the requirement that he be employed or working at the time of injury to qualify for the TSC benefits.