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Defender

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The LAT Can Grant Relief from Forfeiture - Botbyl v Heartland Farm Mutual Inc., 2025 ONSC 3349



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“Given the choice of a statutory interpretation that furthers the public policy objectives underlying the SABS and one that undermines it, the only reasonable decision is to side with the former.”

– Justice Hourigan¹

The Ontario Superior Court found the LAT to have jurisdiction to grant equitable relief, specifically relief from forfeiture pursuant to s.129 of the *Insurance Act*² (“the Act”). In doing so, it was confirmed that the LAT is considered a “court” as stated in s.129 of the *Act*.

Background and Facts

The applicants suffered significant injuries as a result of a motorcycle accident. They insured their motorcycle with Economical Insurance and the remainder of their vehicles with Heartland Farm Mutual Inc, which included optional benefits. Both Economical and Heartland advised the Insureds to submit the OCF-1 to Economical and *then* apply for their optional benefits with Heartland. Heartland then rejected the Insureds’ application for their optional benefits for failure to comply with Endorsement OPCF 47, which provides access to optional benefits “if the insured agrees not to make a claim for SABS under another policy”.

The applicants went before the LAT, where Adjudicator Norris held the LAT has the jurisdiction to order equitable relief in this case as it pertained to the SABS and was extraordinary. The LAT granted the relief from forfeiture based on four factors: (1) a lack of dubious behaviour from the Insureds and the fact this was an innocent mistake, (2) the quick request to Heartland to reconsider their denial, (3) Heartland would not be harmed if the insureds revoked their Economical application and submitted a fresh application to Heartland, and (4) the difference between the damage and the forfeited value “weighed in favour of the insureds”. In the Reconsideration decision, Vice-Chair

1 *Tomec v Economical Mutual Insurance Company*, 2019 ONCA 882 at para 45.

2 RSO 1990, c.18 [the *Act*].

Johal found four errors of law and overturned the decision. The Divisional Court overturned the Reconsideration and granted the applicants relief from forfeiture.

Superior Court Decision

The Court cited *Akinyimide v Economical Mutual Insurance Company*, 2023 ONSC 5272, which found the LAT had jurisdiction to grant statutory remedies and did not address whether the LAT had jurisdiction to grant equitable remedies. The Court also distinguished this case from *Williams v York Fire & Casualty Insurance Company*, 2007 ONCA 479, where the breach of a policy condition gave rise to a valid denial of coverage as the default occurred before the loss. The court noted that in this case the “default” occurred after the loss, which was “precisely the kind of situation s.129 is meant to cover.”

The Court considered whether allowing the LAT to grant an equitable remedy in this case would violate s.96 of the *Constitution Act, 1867*. The Court found the LAT to be encompassed under the definition of “court” in s. 129 of the *Act*, and this was not a contravention of the purposes and intention of s.96 of the *Constitution Act*. The Court noted their analysis focused on the type of dispute rather than remedy sought, as per *Sobeys Stores Ltd v Yeomans and Labour Standards Tribunal (N.S.)*, [1989] 1 SCR 238.

The Court characterized the subject matter in this case to be “the resolution of disputes in respect of an insured person’s entitlement to SABs or in respect of the amount of SABs to which an insured person is entitled.” The court cited *Stegenza v Economical Mutual Insurance Company*, 2019 ONCA 615, where the LAT had complete jurisdiction to resolve entitlement disputes under the SABs.

The Court commented on the decision in *R v Conway*, 2010 SCC 22, where the Supreme Court held the Ontario Review Board to be the competent jurisdiction to handle all questions of law for Tribunal-related matters as it was a “specialized statutory tribunal”. Furthermore, the Court noted that “the legislature has specifically granted the LAT the jurisdiction ‘to determine all questions of fact or law that arise in the matters before it.’” The Court also noted *Tomec* (2019 ONCA) stands for the principle that the *SABS* is to be given broad interpretation and is “consumer protection legislation”. Considering the severity of the injuries and the complexity of the OPCF 47 requirement, supported by the inconsistent guidance from the two insurance companies, the Court found no evidence to suggest the “Insureds wish to be doubly compensated.”

Takeaways

This case highlights the LAT’s jurisdiction to apply s.129 of the *Act* and grant equitable remedies when authorized by legislation. It is at least confirmed in this case that the LAT can grant relief from forfeiture under the SABs. This recognition allows applicants the opportunity to pursue a claim at the LAT for equitable relief at least in the context of optional benefits. This is also a signal for insurers to act in good faith throughout the claims process given the LAT’s ability to order equitable remedies.



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