

IN THE MATTER OF HEPATITIS C – CLASS ACTION SETTLEMENT 1986-  
1990

CLAIM FILE NO. 1000015

REFEREE

Gerald J. Charney, Q.C.

APPEARANCES FOR THE ADMINISTRATOR

Carol Miller – Hep C Claims Centre  
John Callaghan - Counsel

APPEARANCES FOR THE CLAIMANT

Claimant

The hearing in this matter took place on November 25, 2003 at  
Richmond Hill, Ontario.

## DECISION

The claimant has applied as a primary infected person having been refused status by the Administrator.

The claimant gave evidence and said that in May of 1986 he was in a serious accident wherein an ambulance transported him to the Toronto East General Hospital.

The claimant said that he might have received blood in the ambulance and in any event he said he received blood at York Finch Hospital. Counsel for the Administrator was able to provide the emergency admissions forms from East General Hospital and the ambulance admission form. There are records of his blood chemistry. His hemoglobin was 117 and it eventually dropped to about to about 106. I am reliably informed by expert testimony that would not cause anyone to transfuse the claimant. There are records of the drugs that were given him and there is no record of him being transfused.

There was a blood trace through the Canadian Blood Services (CBS) to request their assistance in obtaining such information. CBS received the following responses. Toronto East General Hospital responded that it had searched its records and there were no records of the claimant or that he was transfused.

It is my conclusion that there is no evidence, either direct or indirect, that the claimant was transfused in 1986 either in the ambulance or in the emergency department or after the surgery.

The claimant also says that he was in a similar accident in 1987 on his other arm and that he is certain he received blood on that occasion as well.

In 1987 he again was taken to the hospital after an accident where he injured his arm by either putting it through a window or having it put through a window in a fight. It is not germane for our purposes. The ambulance arrived and he was taken to York Finch Hospital, now Humber Memorial Hospital, where he was treated in emergency and sent to Toronto Western Hospital by ambulance for plastic surgery.

The claimant said that he received blood in the ambulance. He said in any event, he received blood at York Finch Hospital.

He claims that his girlfriend was told by one of the doctors at York Finch Hospital that he lost  $\frac{3}{4}$  of his supply of blood. For the purposes of this hearing, I have accepted that that is true i.e. that the girlfriend would give evidence that that is what she was told.

Again, there is evidence of his blood chemistry where his hemoglobin was normal at 123. In this case there was an ambulance report that shows he was in the ambulance for 9 minutes and when he arrived in emergency the report said that a pressure tourniquet was applied to stop the bleeding and that major bleeding ceased. He was sent off to Toronto Western Hospital for plastic surgery.

Again there was an application to see if there was any blood transfusion both at York Finch and at Toronto Western and in both instances the trace came back negative. The report of the ambulance that transferred the claimant from

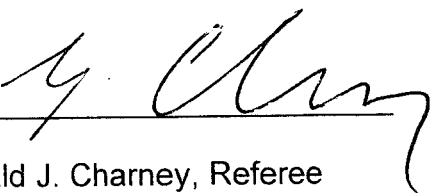
York Finch to Toronto Western was that it was an ordinary ambulance transfer without lights or sirens. Finally, there is the report of the surgeon who did the plastic surgery and again there is no indication of any blood transfusion though there are details of other medication given.

The evidence that  $\frac{3}{4}$  of his blood had been lost, cannot be accepted because it is contradicted by all the laboratory results noted on the claimant's file.

In conclusion then I find that there is no evidence that the claimant received blood in 1987.

Since I have previously found that he did not receive blood in 1986 and have now found that he did not receive blood in 1987, I must reluctantly find, that though it is clear that the claimant has Hepatitis C, which apparently was diagnosed in May 2000, that he does not qualify to receive compensation under the settlement and therefore the decision of the Administrators is upheld.

DATED at Toronto, this 26th day of November, 2003.

  
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Gerald J. Charney, Referee