

THE 1986-1990 HEPATITIS C CLASS ACTION SETTLEMENT

IN THE MATTER OF AN APPEAL FROM THE DECISION OF THE ADMINISTRATOR
DATED JUNE 27, 2002

DATE OF HEARING: March 24, 2005

IN ATTENDANCE:

CLAIMANT: #1401015

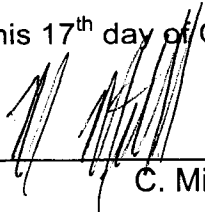
FOR THE ADMINISTRATOR: John Callaghan
 Carol Miller

REFEREE: C. Michael Mitchell

DECISION

1. This is an Ontario-based Claimant, claim #1401015.
2. The Claimant appeals the decision of the Administrator dated June 27, 2002, in which the Administrator found that there was not sufficient evidence to support the claim that the Claimant received blood during Class Period.
3. The Claimant states that she believed she was transfused at the Scarborough Centennial Hospital in 1986 and 1987.
4. Conference calls in this matter took place on April 16, 2004 and February 7, 2005, and a hearing was held on March 24, 2005.
5. The Claimant had been hepatitis C positive since 1997. A medical report from Dr. B. Kristan Mohindra dated January 10, 2001 indicated that the Claimant had a blood transfusion when she had gastric stapling in 1986 and again in 1987 when she had cholecystectomy. However, this statement from Dr. Mohindra was based on the Claimant's statement to him, and Dr. Mohindra had no independent knowledge that the Claimant had been transfused. A similar medical report dated July 9, 2003 from Dr. J. Sue-Chue-Lam had a similar statement, but it was also based on the Claimant relating her medical history to him. The aforementioned medical reports were made to Dr. A. Haukioja, who also indicated that transfusions occurred in 1986 and 1987, but a subsequent letter from him indicated this was also based on information provided by the Claimant. A similar medical report by Dr. R. Dale Taylor in August 2001 containing a similar statement, was also based on the Claimant's statements.
6. The Claimant has no independent basis to support her claim that a transfusion must have taken place at the time of these surgeries and makes no direct claim that one occurred.
7. The medical files of the Claimant, which were not available apparently at the time of the decision by the Administrator, were subsequently made available, and produced in this proceeding.
8. The Claimant originally believed that the medical reports of her physicians would support her claim that a transfusion had occurred in 1986 or 1987, but she subsequently advised that she could not obtain a medical report that would support that position.
9. In this case, the Administrator's decision is upheld, as there is no evidence upon which a different conclusion can be reached. After clarification that the basis of the medical reports from all the relevant physicians was the Claimant's own assumption that she must have been transfused, there is no evidence to make a finding that a transfusion did take place in the relevant period. In the result, the Administrator's decision is upheld.

DATED at Toronto this 17th day of October, 2005


C. Michael Mitchell
Referee