
BULLETIN NUMBER: 06-2016

TITLE: USING THE STATUTORY DISPUTE RESOLUTION
PROCESS ON DIMINISHED VALUE CLAIMS

DATE: November 2016

PURPOSE:

The purpose for issuing this bulletin is to confirm the use of dispute resolution process (DRP) on first party diminished value (DV) claims. Insurers must not refuse use of the DRP, as set out in Section 519 of the *Insurance Act (Act)*, for the settlement of a claim made by an insured to his or her own insurer for DV of the insured's automobile.

CAUTION FOR INSURED:

A DRP determination does not mean that the insurance company must pay your DV claim. Generally, insurance companies take the position that the Alberta Standard Policy Form #1 (SPF #1) does not cover an Insured's own DV loss. The Superintendent considers this a reasonable interpretation of the coverage provided by the SPF #1. The DRP cannot be used to decide issues of coverage, which are the jurisdiction of Alberta's courts.

DIMINISHED VALUE DEFINED:

For the purposes of this bulletin, DV is the concept that an automobile repaired following a collision or other damaging event has less value than it would have had if the vehicle had not involved in a damaging event.

USE OF DISPUTE RESOLUTION PROCESS ON DIMINISHED VALUE CLAIMS:

Over the past months, my office has received complaints from insureds who have demanded that their insurer enter into the DRP in order to determine the DV of a repaired automobile insured under their policy. In each case, the insurer declined to accept the DRP, demand notice based on the insurer's position that it would be confusing and contradictory to proceed with the DRP as DV is not covered under an automobile insurance policy. In each instance my office notified the insurer that it must proceed with DRP when a demand is made by an insured regardless of whether the

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right to recover under the contract is disputed or not, i.e., whether or not the insurer agrees the loss is covered under the SPF #1.

This is in accordance with Section 556 of the Act, Automobile Insurance Statutory Condition 4(9) (cited below) which provides both an insured and an insurer the right to demand the DRP be used to resolve a disagreement about the amount of the loss (quantum), separate and apart from a disagreement about coverage.

*REQUIREMENTS WHERE LOSS OR DAMAGE TO
AUTOMOBILE 4(9) In the event of disagreement as to the nature
and extent of the repairs and replacements required, or as to their
adequacy, if effected, or as to the amount of the loss or damage,
those questions must be determined by a dispute resolution process
as provided under the Insurance Act before there can be recovery
under the contract, whether the right to recover under the contract
is disputed or not, and independently of all other questions.*

To illustrate that DRP applies to quantum and not to coverage, here is an example: If an insured and their insurer disagree about both the quantum of DV and coverage for DV, the insured has the right to resolve the quantum disagreement using the DRP. When the DV quantum is established by the DRP, it does not mean that the insurer must pay DV to the insured. The insurer retains the right to dispute the coverage issue independent of and separate from the quantum determination. Coverage disagreements are ultimately the jurisdiction of the Court. This means that if an insured continues to disagree with their insurer's denial of coverage for DV, the insured would have to sue their insurer and ask the court to decide coverage.

If you have any questions about this bulletin, please contact one of our compliance officers at 780-643-2237, or by email at tbfi.insurance@gov.ab.ca.

[ORIGINAL SIGNED]

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