

## Insurance or No Insurance at all!



**By Brian Madigan LL.B.**

Bob and Allison were sitting quietly in their family room one evening when all of a sudden they heard a crash, it was like a jet airplane landing on their roof.

They went out to their backyard and found that a 72 foot tractor trailer had veered off the road and totally demolished their two car garage.

The garage or what was left of it, was simply a pile of rubble in the backyard. The police came to investigate and charged the driver with careless driving. The driver apologized and accepted responsibility that evening. It's difficult to say that the garage "cut him off", so what else could he do.

Rob checked his insurance policy and confirmed that he had replacement cost insurance and that outbuildings were covered up to \$50,000.

A call the next day to his insurer eliminated any concerns, as they said "everything would be looked after".

However, there was one little problem. The garage was 40 years old and it was too close to the lot line. The new garage will have to be built with a 5 foot setback from the property line. Rob said that was fine by him, since there was almost one acre of property.

But, this was great news to Rob and Allison's insurer. In fact, they were somewhat overjoyed and at times almost found it difficult to contain themselves. Why? Well, the insurance company said "***you really have to read the fine print***".

Rob wondered, just exactly what did it say? Apparently, not quite enough! Rob should have asked about and paid an additional premium for the "by-law coverage endorsement". That would have covered them in this instance.

So, here's the problem. The cost of rebuilding the garage where it was will be \$30,000. The cost of building it in the new location as required by the by-law will be \$40,000.

This extra by-law coverage would cover the extra \$10,000. The additional costs included demolishing the old foundation and building a new foundation, as well

as some increased costs for applications and building permits.

Now, if Rob and Allison decide not to rebuild, they can take a cash settlement of \$17,500. That is the depreciated value of the 40 year old garage.

They can sue the trucking company for the entire \$40,000 loss, should they wish to do so. That's one option. But, they have insurance! If they rebuild, it will cost them an additional \$10,000 that they don't have. Or, they can just take less than half and call it quits. And, one more thing. The insurance company has the right of subrogation. It gets to sue the trucking company in the name of Rob and Allison (it doesn't have to use its own name) for any moneys it pays out. So, it gets the \$17,500 back from the trucking company. It might also include the additional claims from Rob and Allison but it doesn't have to. That's completely discretionary.

So, really you can see why insurance company underwriters are laughing all the way to the bank. And, it's really very, very funny. You just have to be in the right mood for a good laugh, and of course it would certainly help if you worked at the insurance company. Rob and Allison don't find the same level of humour in all of this.

After all, the insurance policy was "Comprehensive General", it included "guaranteed replacement cost", outbuildings were included and according to the insurance broker it was the best policy on the market.

So, I suppose that Rob could have been a little sharper when he bought his insurance policy, he should have hired a lawyer specializing in insurance claims to review all the competitive policy wordings from the various insurance companies and advise him accordingly. Right!

This insurance business seems to be a good racket. You keep quiet about your policy and just sit back and collect the premiums. When there is a loss, that's when you pull out the policy and start reading it to the policyholders.

This insurer with its **comprehensive, guaranteed replacement policy** up to \$50,000 on outbuildings, may only have to pay less than half of the claim, or what's even better, none of the claim, if Rob and Allison seek to go after their full loss.

Why have insurance? And, if the insurer doesn't pay should you at least be able to get your premiums back?

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