

The Canadian Abridgment eDigests -- Insurance

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INS.II.2.b.ii.B

Subject Title: Insurance

Classification Number: II.2.b.ii.B

Agents, brokers and adjusters -- Relationship between agent and insurer -- Rights of agent -- Right to commissions -- On renewal premiums

Agent and son sold insurance for insurer -- Most popular form of insurance sold involved vanishing premiums, whereby interest on payments used to pay later installments -- Son lost license through improper practices as agent -- Son believed he was in receipt of other type of license, and continued to sell insurance under aegis of agent -- Insurer brought complaint to Ontario Insurance Corporation regarding agent and son -- Insurer began investigation into agent and son, and concluded that "fronting" had occurred -- Insurer terminated contract with 30 days notice, without giving reason -- Insurer attempted to assign new block of agents to customers held by agent -- Insurer purported to cease commission payments from policies -- Insurer informed customers of agent that agent had been involved in wrongdoings, attempted to have agent's license revoked and have criminal charges laid -- Several clients of insurer were of opinion that vanishing premium policies were sold by way of false representations, and began class action -- Class action was settled -- Insurer maintained that agent made certain false representations when selling policies -- Agent brought action for breach of contract and breach of fiduciary duty -- Insurer brought counterclaim for damages arising from misrepresentations in insurance contracts -- Action allowed; counterclaim dismissed -- Insurer did not have absolute right to cancel contract -- Insurer breached fiduciary duty and duty of good faith -- Right to commissions had vested and was similar in nature to pension -- Insurer's actions caused financial hardship and humiliation -- Agent awarded \$267,000 in lost commissions, and declaration issued ordering payment of future commissions.

Ward v. Manufacturers Life Insurance Co. ([2006](#)), [2006 CarswellOnt 3391](#), Power J. (Ont. S.C.J.)
[Ontario]

INS.II.2.f.ii

Subject Title: Insurance

Classification Number: II.2.f.ii

Agents, brokers and adjusters -- Relationship between agent and insurer -- Liability of insurer for act of agent -- Fraud of agent

Agent and son sold insurance for insurer -- Most popular form of insurance sold involved vanishing premiums, whereby interest on payments used to pay later installments -- Son lost license through improper practices as agent -- Son believed he was in receipt of other type of license, and continued to sell insurance under aegis of agent -- Insurer brought complaint to Ontario Insurance Corporation regarding agent and son -- Insurer began investigation into agent and son, and concluded that "fronting" had occurred -- Insurer terminated contract with 30 days notice, without giving reason -- Insurer attempted to assign new block of agents to customers held by agent -- Insurer purported to cease commission payments from policies -- Insurer informed customers of agent that agent had been involved in wrongdoings, attempted to have agent's license revoked and have criminal charges laid -- Several clients of insurer were of opinion that vanishing premium policies were sold by way of false representations, and began class action -- Class action was settled -- Insurer maintained that agent made certain false representations when selling policies -- Agent brought action for breach of contract and breach of fiduciary duty -- Counterclaim dismissed -- Insurer unable to claim set off from settlements of class action -- Insurer was aware of any improper overselling techniques used to sell insurance policies, and was estopped from claiming indemnification -- No wrongdoing by agent, and any irregularities in policies were not cause of policyholders or insurer's loss -- Conduct of investigation and termination was reprehensible -- Agent was not given opportunity to respond to allegations.

Ward v. Manufacturers Life Insurance Co. ([2006](#)), [2006 CarswellOnt 3391](#), Power J. (Ont. S.C.J.)
[Ontario]

INS.II.2.g.i

Subject Title: Insurance

Classification Number: II.2.g.i

Agents, brokers and adjusters -- Relationship between agent and insurer -- Termination of agency -- General principles

Agent and son sold insurance for insurer -- Most popular form of insurance sold involved vanishing premiums, whereby interest on payments used to pay later installments -- Son lost license through improper practices as agent -- Son believed he was in receipt of other type of license, and continued to sell insurance under aegis of agent -- Insurer brought complaint to Ontario Insurance Corporation regarding agent and son -- Insurer began investigation into agent and son, and concluded that "fronting" had occurred -- Insurer terminated contract with 30 days notice, without giving reason -- Insurer attempted to assign new block of agents to customers held by agent -- Insurer purported to cease commission payments from policies -- Insurer informed customers of agent that agent had been involved in wrongdoings, attempted to have agent's license revoked and have criminal charges laid -- Agent brought action for breach of contract and breach of fiduciary duty -- Action allowed -- Insurer did not have absolute right to cancel contract -- Insurer breached fiduciary duty and duty of good faith -- Inequality of bargaining power existed -- Insurer controlled affairs between parties and had exclusive relationship with agent -- Agent and son were vulnerable -- Contract could not be ended in absolute sense -- Although payment of commissions depended on maintaining agreement, agreement was cancelled in bad faith -- Insurer unfairly harmed agent by cancelling commission -- Although terms of agency had changed during course of agent's work, insurer gave agent assurances that commissions would be paid in manner claimed -- Agent entitled to \$150,000 for breach of good faith -- Insurer's actions caused financial hardship and humiliation -- Conduct of investigation and termination was reprehensible -- Agent was not given opportunity to respond to allegations -- Insurer acted improperly by telling clients that agent was terminated for improper practices -- Insurer told clients that numerous complaints had been received regarding agent, when in fact only five complaints had been registered against company and only one against agent -- Insured's complaint to OIC and attempts to have license revoked were improper and showed bad faith.

Ward v. Manufacturers Life Insurance Co. ([2006](#)), [2006 CarswellOnt 3391](#), Power J. (Ont. S.C.J.) [Ontario]



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