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CASE SUMMARY: DESPITE INSURED'S INSURABLE INTEREST IN PROPERTY HELD AS COLLATERAL PURSUANT TO A PROMISSORY NOTE, THERE WAS NO COVERAGE FOR THE STOLEN PROPERTY AS A RESULT OF APPLICABLE EXCLUSION CLAUSES IN THE POLICY

An insured has an insurable interest in property held as collateral pursuant to a promissory note. However, in the present case, there was no coverage for the stolen property as a result of applicable exclusion clauses in the policy.

Insurance law – Property insurance – Insurable interest – Promissory estoppel – Exclusions – Damages

[Windsor v. Portage Mutual Insurance Co.](#), [2017] A.J. No. 1369, 2017 ABPC 316, Alberta Provincial Court, December 13, 2017, G.A.G. Yake Prov. Ct. J.

The insured was in possession of prop weapons owned by an unrelated man (the “Props”) which were held as collateral pursuant to an unregistered promissory note. The insured was also in possession of other property which belonged to the same man and was not part of the promissory note (the “Other Property”). The man occasionally rented a room at the plaintiff’s house for \$500 per month.

The insured made a claim for coverage from the insurer after her garage was broken into and the Props and the Other Property were stolen. The insurer denied coverage on the basis that the plaintiff did not have an insurable interest in stolen property and, alternatively, the losses were not covered by the policy.

As the insured benefitted from the continued existence of the Props as collateral for the promissory note, the court found that the insured had an insurable interest in the items which were described as collateral in the promissory notes and the Props, but not in the man’s Other Property.

The insurer relied on several of the policy’s exclusions. The court rejected the insurer’s arguments that the Props were illegally kept or stored and that they were business property. However, the court agreed with the insurer that the Props were not “personal property you own wear or use while on your premises which is usual to the ownership or maintenance of a dwelling.” On this point the court held that the Props were unique items used in the production of movies which were being held by the insured as security for a loan which could not be characterized as habitually or commonly related to the use of the insured’s home as a residential building and thus they were excluded from coverage.

This case was digested by [Laura E. Miller](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Laura E. Miller at lmiller@harpergrey.com.