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CASE SUMMARY: THE ACTUAL CASH VALUE OF A RING WAS HELD TO BE THE REPLACEMENT COST WITHOUT ANY DEDUCTION AS THE POLICY DID NOT SET OUT HOW SUCH A DEDUCTION WOULD BE CALCULATED AND THERE WAS NO EVIDENCE THE RING HAD DEPRECIATED IN VALUE

Insurance law – Homeowner’s insurance – Interpretation of policy – Damages – Actual cost vs replacement cost

Machtinger v. CAA Insurance Co., [2018] O.J. No. 1950, Not available, Ontario Superior Court of Justice – Small Claims Court, April 11, 2018, A. Davis Deputy J.

The insured was paid only the actual cash value, as calculated by the insurer, of his lost engagement ring because he could not negotiate replacement of the ring with his jeweller. The actual cash value was calculated as the replacement cost less a deduction for depreciation. The policy contained a detailed definition of replacement cost but did not provide the method for calculating the actual cash value. The insurer argued the calculation of actual cash value was based on an internal policy.

The Court found there was no evidence that would support a deduction for depreciation as there was no evidence that the ring’s resale value had decreased or that the ring had a shorter life expectancy. There was also no evidence as to how the insurer’s internal policy for calculating actual cash value was determined. The policy must clearly set out the difference between replacement cost and actual cash value to allow the insured to agree to and understand its terms. There was ambiguity in the policy and the Court resolved it in favour of the insured by disallowing the depreciation deduction from the replacement cost.

This case was digested by [Dionne H. Liu](#), 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 Dionne H. Liu at dliu@harpergrey.com.