

Supreme Court of Canada Provides a Restatement of Principles for Interpreting Exclusions in Insurance Policies

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Commercial insurance contracts are a complicated patchwork of policies, endorsements, conditions and exclusions. The Supreme Court of Canada has recently restated the “generally advisable” order for Canadian courts to follow when interpreting coverage and exclusions under property insurance contracts.

In *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3, the insured homeowners lost their house in a flood. They held a “comprehensive” home insurance contract with their insurer that included a “Guaranteed Rebuilding Cost Coverage,” which they asserted covered full rebuilding costs of their home (the **Policy**). This coverage was subject to a number of exceptions in the policy, including the following:

[The insurer does] not insure against loss or damage resulting from, contributed to or caused directly or indirectly:

[...]

8. because of increased costs of repair or replacement due to operation of any law regulating the zoning, demolition, repair or construction of buildings and their related services... [insertion added]

(the “**Exclusion**”)

To make matters more complicated – the Exclusion had an exception. The homeowners added a “Building By-law & Code Compliance Coverage” exception to their policy, which provided them with, “an additional amount up to \$10,000 . . . for the increased cost of demolition, construction, or repair to comply with any law regulating the zoning, demolition, repair or construction of any insured buildings” (the “**BBCC Coverage**”).

While rebuilding their home, the homeowners incurred significant expenses to comply with building requirements imposed by their municipality’s conservation authority. When they made a claim for all of these expenses under the Policy, their insurer denied coverage in reliance on the Exclusion. The homeowners, believing that the Exclusion and the BBCC Coverage created an ambiguity that could not be reconciled, brought an application to have the Exclusion declared unenforceable.

Both parties agreed that the conservation authority’s requirements were properly considered “ laws” for the purposes of the Exclusion and the BBCC Coverage. The central issue on appeal was whether the Exclusion was valid for the purposes of limiting or otherwise amending the BBCC Coverage. The homeowners took the position that the exclusion, if given effect, would essentially void the BBCC Coverage, and was therefore unenforceable. On the other hand, the insurer argued that the Exclusion, read together with the BBCC Coverage, simply limited the coverage under that Policy to \$10,000.00, and the insurer would not be responsible for any additional costs.

Interpreting Insurance Policy Exclusions

The Supreme Court of Canada found that the Policy was limited by the Exclusion, which was in turn “expanded” by the BBCC Coverage. The result was that the homeowners’ claim under the Policy was limited to \$10,000.00.

In coming to its decision, the Court restated the following helpful guidelines to follow when interpreting insurance contracts made in Canada.

Interpreting Coverage Under a Policy of Insurance

When determining the applicability of a policy, the following framework is “generally advisable” for courts to follow:

1. First, the insured must prove that the damage or loss claimed falls within the initial grant of coverage.
2. Second, the insurer then has an opportunity to establish that one of the exclusions to coverage applies.
3. Third, if the insurer is successful in demonstrating an exclusion, the insured must prove that an exception to the exclusion applies. [1]

Specific Issues in Insurance Contract Interpretation

In arriving at its decision, the Supreme Court reviewed how to deal with a few questions which often arise when courts are tasked with interpreting insurance policies.

How Clear Does an Insurance Policy Need to Be?

The wording of insurance policies must be unambiguous. When a contract uses unambiguous language, the court should give effect to the policy’s clear language, reading the contract as a whole. [2]

A contract’s language will be deemed ambiguous when a provision has multiple “reasonable but differing interpretations.” [3] Ambiguity in policies of insurance typically arises in two situations: [4]

1. Where an ambiguously worded provision is not reconciled by other provisions of a contract

Consider, for example, the following endorsement:

“This Policy covers personal property damage while away from the premises for a reasonable temporary period”

Does this mean personal property *at* the premises is covered while the *occupier* is temporarily away from it? Or does it cover personal property while the personal property itself is *temporarily away from the premises*, i.e. brought offsite for storage?

What is a “*reasonable temporary period*” – is it one interval of time for all situations, or does a *reasonable temporary period* differ in each circumstance? For example – if the policy covers personal property on the premises while an occupier is on vacation, what is the duration of a “*reasonable temporary*” vacation?

All of these questions have multiple reasonable yet differing answers.

2. When an unambiguous provision can be given two or more reasonable differing interpretations when read together with one or more other provisions under a policy.

Consider, for example, the following two provisions in a policy:

Exclusion: “This Policy does not cover loss or damage caused by theft from a vehicle.”

Endorsement: “This Policy covers all loss or damage caused by theft that occurs anywhere in Canada.”

When read alone, the language of the exclusion clearly excludes coverage from any theft from a vehicle and makes no exception. Conversely, when read alone, the language of the endorsement clearly provides coverage for property theft anywhere in Canada and makes no exception. When read together, there are two reasonable differing answers on whether loss or damage for theft from a vehicle located in Canada would be covered.

The court must give the language of an insurance policy its “ordinary and grammatical meaning,” “as they would be understood by the average person applying for insurance, and not as they might be perceived by persons versed in the niceties of insurance law.” This approach serves consumer protection, which the courts have repeatedly recognized as a key consideration for home and auto insurance. [5]



The courts generally require that insurance policies are “clear, express and easily intelligible.” [6] To determine whether a policy’s language meets this standard, its provisions must be interpreted in light of the contract as a whole, and must not be read in isolation. [7] This is because other provisions in the contract may alter a provision’s meaning, as seen in the example above.

A provision in an insurance policy will not be ambiguous simply because it overlaps with other provisions of the policy. The courts have recognized that insurance policies often include overlapping endorsements, exclusions, conditions and endorsements. Insurers are not expected to fit every piece of an insurance policy together perfectly – interpreting a policy must be an exercise in “searching for harmony rather than discord” between overlapping provisions. [8]

How is an Ambiguous Provision Resolved?

Where a provision may have two reasonable interpretations, the court does not “flip a coin” but rather, will follow a principled approach in resolving ambiguities.

The court will look for an interpretation that is consistent with the reasonable expectations of the parties and will not give interpretations that would create unrealistic results. The interpretation must be consistent with what the parties would have contemplated in the commercial atmosphere that the contract was made in. Additionally, the interpretation should be consistent with the effect of similar insurance policies. [9]

If these interpretation tools do not reveal a reasonable, clear interpretation, the court will use the doctrine of *contra proferentem* to interpret the provision. Essentially – where a provision is ambiguous, it will be given the interpretation which is most favourable to the insured. This accounts for the “unequal bargaining power at work in insurance contracts,” and forces the insurer, who drafted the policy, to “[bear] responsibility for residual ambiguity.” [10]

Can a Policy Exclude Insurance Coverage Entirely?

When the court is interpreting ambiguous exclusions, it cannot find an interpretation which would “completely defeat the very objective of having purchased the relevant coverage,” [11] and render that coverage useless. This keeps with a long-standing common law principle is that an insurance policy cannot contain exclusions which have the effect of defeating the core purpose of the policy. [12] This rule is often referred to as the “nullification of coverage doctrine” or, simply, the “nullification doctrine.”

The nullification doctrine has been followed by Ontario courts for several decades. It was recently articulated by the Court of Appeal as follows:

“The “nullification doctrine” prevents insurance contracts from being construed so as to defeat the coverage the policy provides, thereby defeating the very objective of the insurance contract and rendering it nugatory.” [13]

Put simply – an insurer is not allowed to charge money for a policy of insurance where it does not take on any actual risk. If an insurer is going to offer a policy that purports to cover a certain peril, it cannot “exclude” its way out of providing the essential coverage that an insured would expect.

The nullification doctrine will apply to an exclusion regardless of whether its language is ambiguous. If an exclusion is clear that it would defeat the objective of the policy, the court will deem the exclusion unenforceable.

Conclusion

Reading an insurance policy cover-to-cover can be a feat in and of itself. It can be even more difficult to parse the correct interpretation of how the many provisions of a policy interact with one another. With the Supreme Court of Canada’s decision in *Emond*, insurers and insureds at least have an up-to-date roadmap on how ambiguities in these complicated contracts should be navigated.

When in doubt, always consult an insurance professional or legal professional on insurance coverage. Policy wording is an essential element of a business and an insurer’s operations, and it is critical that both sides understand what protection and limits are in place before – and not after – a claim occurs. A PDF version is available for download [here](#).

[1] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 33.

[2] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 37.

[3] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 41.



- [4] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 46.
- [5] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 38.
- [6] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 39.
- [7] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 40.
- [8] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 47.
- [9] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 49.
- [10] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 50.
- [11] *Emond v. Trillium Mutual Insurance Co.*, 2026 SCC 3 (CanLII) at para 66.
- [12] See *Cornish v The Accident Insurance Co.*, (1889) 23 QBD 453 (Eng CA).
- [13] *Ontario v St Paul Fire and Marine Insurance Company*, 2023 ONCA 173 (CanLII) at para 31.

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