RISK INSIGHTS

LloydSadd INSURANCE BROKERS



COVID-19 UPDATE | January 2021

COVID-19 AND YOUR BUSINESS:

Can Insurance Help? An Important Update.

Many business owners continue to experience losses in sales and closures leading to questions regarding business interruption coverage within property policies.

During the early days of the pandemic we published a Risk Insight that noted that property insurance policies—and the resulting business interruption coverage—require physical damage by an insured peril to trigger a claim. And, that insurers are unlikely to view the introduction of COVID-19 as a direct cause of physical loss or damage.

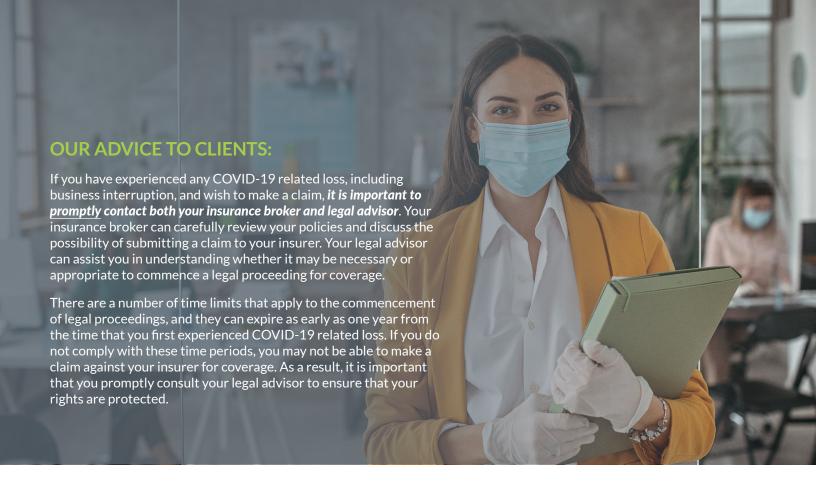
We further advised in early April that the Ontario Superior Court of Justice had released a ground-breaking, non-COVID-19 related decision finding that loss of use in itself was sufficient to trigger coverage under the insured's property policy. While that case did not involve an infectious disease, we advised then, and continue to believe, that coverage for a loss resulting from a virus (COVID-19), cannot be ruled out in light of the decision.

As we approach the one-year anniversary of the first known case of COVID-19 in Canada (being January 25, 2021), there are currently a number of legal actions involving COVID-19 and property insurance policies working their way through the courts in Canada and in various jurisdictions around the world.

Very recently, the Supreme Court of the UK rendered judgment in a business test case ruling on a variety of legal principals relevant to COVID-19 and business interruption coverage in a manner favourable to UK policyholders. In so doing, the court removed the need for UK policyholders to resolve many key issues individually with their insurers.

While the UK ruling is an interesting and potentially positive development for Canadian policyholders, the issue in Canada is still undecided and is likely to continue to be so for some time.





WHAT'S NEXT?

This remains an evolving industry-wide situation resulting from an unprecedented event. As of today, we still cannot say if COVID-19 claims will ultimately be covered. Coverage analysis must be based on the wording within an insured's specific policy—and there are many nuances.

However, the legal decisions touched on above have changed the space, and we would recommend that clients contact their insurance advisor should they feel they have a claim to submit or, if they wish to otherwise preserve legal rights, their lawyers.

We will continue to track Federal and Provincial measures, and will provide updates on a regular basis to support you and your business through this pandemic.

If you have questions specific to your business, or would like additional information, please reach out to your Lloyd Sadd Advisor.

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