



Citation: Kaur v. Economical Mutual Insurance Company, 2025 ONLAT 23-007503/AABS

Licence Appeal Tribunal File Number: 23-007503/AABS

In the matter of an application pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8, in relation to statutory accident benefits.

Between:

Harshpreet Kaur

Applicant

and

Economical Mutual Insurance Company

Respondent

DECISION

VICE-CHAIR:

Kevin Kovalchuk

APPEARANCES:

For the Applicant:

Bianca Pirrotta-Iaccino, Paralegal

For the Respondent:

Karly Lyons, Counsel

HEARD:

By Way of Written Submissions

OVERVIEW

- [1] Harshpreet Kaur, the applicant, was involved in an automobile accident on December 31, 2020 and sought benefits pursuant to the *Statutory Accident Benefits Schedule - Effective September 1, 2010 (including amendments effective June 1, 2016)* (the “Schedule”). The applicant was denied benefits by the respondent, Economical Mutual Insurance Company and applied to the Licence Appeal Tribunal - Automobile Accident Benefits Service (the “Tribunal”) for resolution of the dispute.

ISSUES

- [2] The issues in dispute are:
- i. Are the applicant’s injuries predominantly minor as defined in s. 3 of the *Schedule* and therefore subject to treatment within the \$3,500.00 Minor Injury Guideline (“MIG”)?
 - ii. Is the applicant entitled to \$3,157.39 for psychological services proposed by Alma Rehab Inc. in a plan submitted June 25, 2021?
 - iii. Is the applicant entitled to \$2,350.00 for a chronic pain assessment proposed by Ontario Independent Assessment Centre Inc. in a plan submitted October 28, 2022?
 - iv. Is the applicant entitled to interest on any overdue payment of benefits?
- [3] Prior to the hearing the applicant withdrew issue number 2, that was set out in the CCRO.

RESULT

- [4] Based on the totality of the evidence before me I find:
- i. The applicant sustained predominantly minor injuries as defined in the *Schedule* and thus she is subject to treatment within the monetary limits of the MIG.
 - ii. As the applicant is in the MIG, it is not necessary to determine if the disputed benefits are reasonable and necessary.
 - iii. As there are no overdue benefits the applicant is not entitled to interest.

ANALYSIS

Applicability of the Minor Injury Guideline:

- [5] Section 18(1) of the *Schedule* provides that medical and rehabilitation benefits are limited to \$3,500.00 if the insured sustains impairments that are predominantly a minor injury. Section 3(1) defines “minor injury” as “one or more of a sprain, strain, whiplash associated disorder, contusion, abrasion, laceration or subluxation and includes any clinically associated sequelae to such an injury”.
- [6] An injured person may be removed from the MIG if they can establish that their accident-related injuries fall outside of the MIG or, under s. 18(2) that they have a documented pre-existing injury or condition combined with compelling medical evidence stating that the condition precludes recovery if they are kept within the confines of the MIG. The Tribunal has also determined that chronic pain with functional impairment or a psychological condition may warrant removal from the MIG. In all cases the burden of proof lies with the applicant.
- [7] In this instance the applicant submits no specific argument with respect to why she should be removed from the MIG. Instead, the applicant’s submissions focus on the treatment plans in dispute.
- [8] The respondent submits that the applicant has declined to make submissions as to why she should be removed from the MIG. The respondent further submits that because the applicant has failed to make submissions as to why she should be removed from the MIG her application should be dismissed. The respondent relies upon *Rowe v The Co-Operators General Insurance Company*, 2023 CanLII 81834 (ON LAT), in support of its position.

The applicant remains within the MIG

- [9] I find that the applicant has not met her onus to demonstrate on a balance of probabilities that she should be removed from the MIG.
- [10] Despite being a live issue in the CCRO dated January 10, 2024, the applicant proffered no submissions or evidence as to why she should be removed from the MIG. The MIG issue is not addressed in the applicant’s submissions but rather her submissions deal entirely with the argument that the treatment and assessment plans in dispute are reasonable and necessary.
- [11] I find that the applicant did not provide me with any argument or analysis as to why she should be removed from the MIG.

[12] I am persuaded by the respondent's submissions that the applicant has not met her onus. I am also persuaded by the Tribunal's decision in *Rowe v Co-Operators General Insurance Company*, which is not binding on me, but I find the reasoning to be applicable to this case. Therefore, I find that the applicant should not be removed from the MIG because, she has not provided me with any argument or analysis as to why she should be removed from the MIG.

[13] I find on a balance of probabilities that the applicant remains within the MIG.

INTEREST

[14] As no benefits are overdue no interest is payable pursuant to s. 51 of the *Schedule*.

ORDER

[15] As a result of the above and on a balance of probabilities, I find that:

- i. The applicant has not met her burden to demonstrate that she should be removed from the MIG.
- ii. As the applicant is subject to the MIG, it is not necessary to consider whether the treatment plans in dispute are reasonable and necessary. The applicant is entitled to treatment, up to the remaining MIG limits.
- iii. As there are no overdue benefits payments the applicant is not entitled to interest.

Released: May 2, 2025


Kevin Kovalchuk
Vice-Chair