



Citation: Li v. Economical Insurance Company, 2024 ONLAT 23-009664/AABS

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## RECONSIDERATION DECISION

**Before:** Ulana Pahuta

**Licence Appeal Tribunal File Number:** 23-009664/AABS

**Case Name:** Yun Hao Li v. Economical Insurance Company

**Written Submissions by:**

**For the Applicant:** Lianne Sharvit, Counsel  
Ziv Tsimerman, Counsel

**For the Respondent:** Sonya Katrycz, Counsel

## OVERVIEW

- [1] On May 21, 2024, the applicant requested reconsideration of the Tribunal's preliminary issue decision dated May 1, 2024 ("decision").
- [2] In this decision I determined that the incident that took place on January 19, 2023 was not an accident as defined in s. 3(1) of the *Statutory Accident Benefits Schedule – Effective September 1, 2010 (including amendments effective June 1, 2016)* (the "Schedule"). As a result, the applicant's application was dismissed.
- [3] The grounds for a request for reconsideration are found in Rule 18.2 of the *Licence Appeal Tribunal Rules, 2023* ("Rules"). To grant a request for reconsideration, the Tribunal must be satisfied that one or more of the following criteria are met:
- a) The Tribunal acted outside its jurisdiction or committed a material breach of procedural fairness;
  - b) The Tribunal made an error of law or fact such that the Tribunal would likely have reached a different result had the error not been made; or
  - c) There is evidence that was not before the Tribunal when rendering its decision, could not have been obtained previously by the party now seeking to introduce it, and would likely have affected the result.
- [4] The applicant is seeking reconsideration pursuant to Rule 18(2)(b). He submits that I erred in law or fact such that I would have reached a different decision had the error not been made. The respondent submits that the applicant has failed to establish grounds for reconsideration and that the request for reconsideration be dismissed.

## RESULT

- [5] The applicant's request for reconsideration is dismissed.

## ANALYSIS

- [6] The test for reconsideration under Rule 18.2 involves a high threshold. The reconsideration process is not an opportunity for a party to re-litigate its position where it disagrees with the Tribunal's decision, or with the weight assigned to the evidence. The requestor must show how or why the decision falls into one of the categories in Rule 18.2.

### **Rule 18.2(b) – Error of Law or Fact**

- [7] I find that the applicant has not established grounds for reconsideration under Rule 18.2(b) with respect to alleged errors of law or fact.
- [8] The applicant submits that in my decision I erred in finding that a malfunctioning hoist was an intervening act, independent of the vehicle’s use or operation, which broke the chain of causation. The applicant further submits that a malfunctioning hoist is a “foreseeable risk” with repairing a vehicle. He argues that the present case is akin to the Tribunal decision *Fehr v. Intact Ins. Co.*, 2022 CanLII 14951 (ONLAT), where a ladder slipping was found not to break the chain of causation.
- [9] I find that I did not make an error in law or fact in rendering my decision.
- [10] I agree with the respondent that the applicant is attempting to relitigate his case. In my decision in paragraphs 21 to 25, I considered whether a malfunctioning hoist was an intervening act or a foreseeable risk of inspecting a vehicle. In paragraphs 24 to 25, I consider the *Fehr* decision and note that the Tribunal in *Fehr* distinguished between the ladder slipping and malfunctioning.
- [11] I do not find that I erred in law or fact in my consideration of the submitted caselaw, or in my determination that the malfunctioning hoist was an intervening act. The fact that the applicant does not agree with my analysis or decision is not grounds for reconsideration. The reconsideration process is not an opportunity for a party to re-litigate their position where they disagree with the Tribunal's findings.

### **Costs**

- [12] In its relief sought, the respondent submits that costs associated with the reconsideration should be payable by the applicant. It argues that the applicant has advanced no arguments under the legislation concerned with reconsideration.
- [13] I do not find that the respondent has established a basis for costs. While the applicant provided limited submissions in support of his reconsideration request, I do not find that this behavior was unreasonable, frivolous, vexatious, or in bad faith as is required for a costs order under Rule 19.

### **CONCLUSION & ORDER**

- [14] For the foregoing reasons, the applicant’s request for reconsideration is dismissed.

[15] The respondent's request for costs is dismissed.

A handwritten signature in black ink, appearing to read "Ulana Pahuta", written over a horizontal line.

Ulana Pahuta  
Adjudicator  
Tribunals Ontario – Licence Appeal Tribunal

Released: August 27, 2024