



**Citation: Luo v. Allstate Insurance Company of Canada, 2025 ONLAT 23-010606/AABS - R**

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**RECONSIDERATION DECISION**

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**Before:** Bruce Stanton, Adjudicator

**Licence Appeal Tribunal File Number:** 23-010606/AABS

**Case Name:** Junsheng Luo v. Allstate Insurance Company of Canada

**Written Submissions by:**

**For the Applicant:** Rakesh Sharma, Counsel

**For the Respondent:** Jodie Therrien, Counsel

## OVERVIEW

- [1] On September 2, 2025, the applicant requested reconsideration of the Tribunal’s decision dated August 12, 2025 (“decision”).
- [2] In the decision, I found that the applicant was not entitled to income replacement benefits (“IRB”), two disputed treatment plans, an award, or interest.
- [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] In his request for reconsideration, the applicant identifies criteria under Rule 18.2(a) and 18.2(b) as grounds for his reconsideration request.
- [5] The applicant asks that the decision be reconsidered and varied to find that he is entitled to the claimed IRBs and treatment plans.
- [6] The respondent argues that the request for reconsideration should be dismissed.

## RESULT

- [7] The request for reconsideration is dismissed.

## ANALYSIS

- [8] The test for reconsideration under Rule 18.2 involves a high threshold. The reconsideration process is a limited, error-correcting exercise and should not be considered an appeal of a decision or a re-hearing. In other words, it is not an opportunity for a party to re-litigate its position where it disagrees with the Tribunal’s decision. For the decision to be reconsidered under Rule 18.4, such that it be confirmed, cancelled, varied or a re-hearing ordered, the requestor

must first show how or why the decision falls into one of the categories in Rule 18.2.

***Rule 18.2(a) – Breach of Procedural Fairness***

- [9] I find that the applicant’s submissions for reconsideration have not identified any material breach of procedural fairness in the decision. The ground for reconsideration under Rule 18.2(a) has not been met.
- [10] The applicant’s submissions were not delineated according to the two grounds on which he suggests reconsideration of the decision is merited. Rather, his reconsideration submissions are structured along two areas of discussion:
- a. the scope of the hearing; and
  - b. responses to various paragraphs in the decision.
- [11] The applicant has not specifically identified or directed me to what part or parts of the decision constitute a breach of procedural fairness. Rather, his reconsideration submissions are a series of objections to the findings in the decision, and a restating of the arguments he advanced in his submissions for the hearing. Essentially, his request for reconsideration consists of submissions on why he believes the findings in the decision were wrong.
- [12] As noted above, a reconsideration request is a limited, error-correcting exercise, not an appeal or an opportunity to re-litigate the case. For a request for reconsideration to be granted, the party must first identify how or why the decision meets the ground on which they are requesting reconsideration.
- [13] Since the applicant has not identified what part of the decision constitutes a breach of procedural fairness, I find that his request for reconsideration on the ground under Rule 18.2(a) has not been met.

***Rule 18.2(b) – Error of law or fact***

- [14] I find that the applicant has not established grounds for reconsideration under Rule 18.2(b). He has not established what error of law or fact occurred in the decision, nor has he established an error that would likely have resulted in a different outcome had it not been made.
- [15] Although his reconsideration submissions did not specifically identify errors in law or fact, the applicant’s responses or critique to various sections of the decision generally allege that my reasoning and analyses went beyond the scope of the

hearing as he defined it. He further argues that I used the wrong legal tests, and I was wrong to establish that an OCF-3 should be corroborated by medical evidence. Considering that these three lines of disagreement seem to form the basis of his reconsideration submissions, I will first describe each of these three arguments. I will then analyse his reconsideration submissions on their merits below.

*Issues to be determined – Scope of the Hearing*

- [16] The applicant first submits that the scope of the hearing, or the case for him to make, on a balance of probabilities, was:
- a. Whether the applicant was compliant with the statutory provisions to apply for the disputed benefits; and
  - b. Whether the denial reasons were statutorily valid with respect to the applicable provisions of the statute and the information contained in the statutory forms required to apply for the disputed benefits.
- [17] The applicant submits that, by referring to s. 5(1) of the *Statutory Accident Benefits Schedule - Effective September 1, 2010 (including amendments effective June 1, 2016)* (“*Schedule*”) and the need to identify the essential tasks of his employment (along with the tasks he is unable to perform, and to what extent he is unable to perform them), I am “inventing a criteria/issue which is not in the scope of the hearing”.
- [18] The applicant submits that, at paragraph 9 and 25 of the decision, I went beyond the scope of the hearing, essentially coining my own reason about a fact that was not the cause of the dispute.
- [19] At paragraph 30 of the decision, the applicant submits that I rendered a finding in respect to his entitlement to an IRB that was not before me, namely whether the applicant suffered a substantial inability to perform the essential tasks of his employment.
- [20] I find the “scope of the hearing” is that which is established by the issues in dispute in the Case Conference Report and Order of April 2, 2024 (“CCRO”).
- [21] Counsel for the applicant attended the case conference and consented to the wording of the issues in dispute. The issues clearly define the substantive issues as to whether the applicant is entitled to the disputed benefits.

- [22] Under s. 280(1) and (2) of the *Insurance Act*, R.S.O. 1990, c. I.8, insured persons may apply to the Tribunal to resolve disputes in respect of their entitlement to statutory benefits or the amount of benefits they are entitled to. Section 280(4) stipulates that disputes shall be resolved in accordance with the *Schedule*.
- [23] According to the CCRO, the scope of the hearing rests with whether the applicant is entitled to the disputed benefits. I find that the applicant's suggestion to narrow the scope of the hearing to whether he filed certain OCF forms and whether the denials were compliant fails to fully take account of the provisions of the *Schedule* that apply to his entitlement to benefits.
- [24] In relation to IRBs, the decision rightly stated at paragraph 7 of the decision that entitlement to receive payment of an IRB means meeting the eligibility criteria set out in s. 5(1) C of the *Schedule*. Section 5(1) C obliges an insurer to pay an IRB to an insured person who sustains an impairment as a result of an accident if, as a result of and within 104 weeks after the accident, the insured person suffers a substantial inability to perform the essential tasks of the employment in which they were generally employed prior to the accident.
- [25] I find that the applicant has not established that an error of law or fact occurred, because the eligibility test used in the decision is taken directly from the applicable section of the *Schedule*. The issue to be determined on eligibility for an IRB includes whether the accident-related injuries resulted in a substantial inability to perform the essential tasks of employment. The question to be determined is not just the applicant's compliance with OCF forms and the suitability of the respondent's denial of benefits.
- [26] I find that the applicant has not established that an error of law or fact occurred in the decision in regard to the scope of the hearing. The scope of the hearing was established by the issues in dispute listed in the CCRO and consented to by the parties.

*Legal tests wrongly applied*

- [27] Referring to paragraphs 7 and 24 of the decision, the applicant's second argument is based on his submission that the legal test for his eligibility to IRB benefits rests only with the submission of completed statutory claim forms, namely, the OCF-1 and OCF-3. He submits that the declaration from the author of the OCF-3 that he meets the disability test under s. 5(1) is all that is statutorily required. He submits that the decision, at paragraph 7, wrongly imposed a disability test, i.e., required him to identify the essential tasks of his employment,

which tasks he was unable to perform, and to what extent he was unable to perform them.

- [28] Referring to paragraph 9 and 25 of the decision, the applicant disagrees with the decision applying a legal test regarding his absence from work being occasioned by his accident-related injuries.
- [29] The applicant submits that, at paragraphs 32, 38, 44, 45 and 46 of the decision, in relation to the two disputed treatment plans, the decision wrongly requires him to identify the goals of the treatment plan, how the goals would be met to a reasonable degree, and that the overall costs of achieving them are reasonable. The applicant submits that, to be eligible for medical and rehabilitation benefits, he must only provide a compliant OCF-18 pursuant to s. 38(3), and that the reasonableness and necessity of the treatment plan is only in relation to the respondent's determination pursuant to s. 38(8). The applicant submits, in other words, that if the respondent denies a claim, the applicant's burden on appeal of the denial, is merely to prove that the reasons in the denial are faulty, frivolous, or statutorily deficient.
- [30] I find the applicant has not established that an error of law or fact occurred in the decision by virtue of using the wrong legal test.
- [31] As noted above, at paragraph 7 of the decision, the eligibility test used for determining eligibility for IRBs was taken directly from the *Schedule* and rightly invokes the requirement that an applicant describe what essential tasks of his employment he is or is not capable of as a result of his accident injuries.
- [32] For the disputed treatment plans, the legal test was defined at paragraph 32 and 33 of the decision, in that, pursuant to sections 15 and 16 of the *Schedule*, the applicant must demonstrate, on a balance of probabilities, that the treatment plan is reasonable and necessary.
- [33] I disagree with the applicant's submission suggesting that the legal test for the reasonableness and necessity of the treatment plans rests only with his compliance with s. 38. As with the IRBs, the question to be determined is whether the applicant has demonstrated entitlement to the treatment plans in accordance with the *Schedule*.
- [34] Section 14 of the *Schedule* is the overarching provision making the insurer liable to pay benefits to an insured person who sustains an impairment as a result of an accident. Sections 15 and 16 outline the requirements that this liability includes

paying for all reasonable and necessary expenses incurred by an insured person as a result of the accident.

[35] “Reasonable and necessary” is not defined in the *Schedule*, therefore, the decision takes a practical approach to considering the “reasonable and necessary” test as it applies to an applicant’s entitlement. For these reasons, the decision explains that applicants must identify two components:

- a. the goals of treatment and how the goals would be met to a reasonable degree, i.e., to demonstrate how effective they align with addressing his accident injuries; and
- b. that the overall costs of achieving the goals are reasonable.

[36] Both practical tests for reasonable and necessary are anchored by provisions of the *Schedule*. For example, section 15(1) requires an insurer to pay medical benefits for all reasonable and necessary expenses that arise from their accident injuries. It is reasonable, therefore, that the applicant be compelled to explain what the goals of treatment are in relation to his injuries, and how those goals would be met to a reasonable degree. Section 15(2) notes that the insurer is not liable to pay medical benefits for expenses that exceed the maximum rate established under the Professional Services Guideline. As part of proving his eligibility for such benefits, the decision appropriately compels the applicant to explain that the overall costs associated with the treatment plan are reasonable.

[37] I find that the applicant has not established an error of law or fact in respect to the legal tests applied in the decision.

*Requirement that an OCF-3 be corroborated*

[38] The applicant’s third argument is that, in relation to paragraph 26, the decision wrongly stated that an OCF-3 on its own was not sufficient medical evidence to prove entitlement and that, to be persuasive, an OCF-3 must be corroborated by objective medical evidence from other sources. The applicant contends that no corroboration is required, and the OCF-3 on its own is sufficient to prove a disability requiring payment of the IRBs.

[39] In paragraph 26 of the decision, I explain that the applicant’s arguments in favour of his entitlement to IRBs would be more persuasive if corroborated by objective medical evidence from other sources. This is a standard that is well established by the Tribunal’s decisions on matters of entitlement to medical benefits.

- [40] Further, at paragraph 29, the decision explains that, for the first five weeks of IRBs, the applicant did not provide evidence of a substantial inability to perform the tasks of his pre-accident employment. My finding at paragraph 29 is rooted not just on there being no evidence to support his substantial inability (beyond the OCF-3), but also because, as stated in paragraph 27, the applicant provided no evidence in relation to “his ability or inability to perform employment tasks as occasioned by his accident injuries”.
- [41] I find the applicant has not established that an error of law or fact occurred, in respect to paragraph 26 of the decision.
- [42] In addition to the three alleged errors of fact or law discussed above, the applicant made submissions on what he believed was the intention of the legislature in making the application for disability benefits easy and affordable by requiring only an OCF-3, at a fee of only \$200.00, thereby saving an applicant the time and cost of procuring section 25 assessments to prove they suffered an inability to perform the essential tasks of their employment. Since these submissions express a theory of the legislature’s intention in support of his hearing submissions, effectively re-arguing his case, I am persuaded they have little relevance to the reconsideration request and require no analysis in this decision.
- [43] Considering each of the three alleged errors of fact or law noted above, I find the applicant has not established any grounds for reconsideration pursuant to Rule 18.2(b).

## **CONCLUSION & ORDER**

- [44] For the reasons noted above, I dismiss the applicant’s request for reconsideration.

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**Bruce Stanton**  
**Adjudicator**  
**Tribunals Ontario – Licence Appeal Tribunal**

**Released: December 3, 2025**