



Citation: Ghobadian v. Security National Insurance Company, 2026 ONLAT 24-008364/AABS

Licence Appeal Tribunal File Number: 24-008364/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:

Reza Ghobadian

Applicant

and

Security National Insurance Company

Respondent

DECISION

ADJUDICATOR:

Nadia Mauro

APPEARANCES:

For the Applicant:

Michael Ferrante, Paralegal

For the Respondent:

Evan Argentino, Counsel

HEARD:

By way of written submissions

OVERVIEW

[1] Reza Ghobadian, the applicant, was involved in an automobile accident on January 5, 2022, 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, Security National 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:

1. 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 limit (“MIG”)?
2. Is the applicant entitled to \$2,230.58 for chiropractic services, proposed by Success Rehab in a treatment plan (“OCF-18”) dated November 4, 2022?
3. Is the applicant entitled to \$3,085.61 for physiotherapy services, proposed by Success Rehab in an OCF-18 dated June 3, 2024?
4. Is the applicant entitled to \$2,397.75 for a neurological assessment, proposed by Ontario Independent Assessment Center Inc. in an OCF-18 dated July 19, 2024?
5. Is the applicant entitled to \$2,657.75 for a chronic pain assessment, proposed by Ontario Independent Assessment Center Inc. in an OCF-18 dated September 9, 2024?
6. Is the applicant entitled to interest on any overdue payment of benefits?

[3] The applicant confirmed in his submissions that he withdrew issue 6 as listed on the Case Conference Report and Order, dated November 28, 2024 (“CCRO”).

RESULT

[4] The applicant’s accident-related injuries are predominantly minor as defined by the *Schedule*.

- [5] As the applicant is in the MIG, it is not necessary to consider if the treatment plans in dispute are reasonable and necessary. He is not entitled to interest.

PROCEDURAL ISSUES

The respondent's motion to exclude the applicant's evidence

- [6] On July 18, 2025, the respondent brought a motion requesting that the documents submitted with the applicant's hearing brief be expunged. The respondent requests in the alternative, that the written hearing be adjourned.
- [7] The basis for the respondent's motion is that the applicant failed to submit documents within the timeline prescribed by the CCRO. Namely, the applicant did not produce the documents and things not previously exchanged that he intended to rely on as evidence at the hearing.
- [8] The respondent submits that on July 4, 2025, it wrote to the applicant's counsel advising that there were still no medical records produced, "so [it] is taking the position that there is no evidence of any basis to remove the applicant from the MIG, nor any evidence that the treatment plans are reasonable and necessary." The respondent submits that as of 5 days prior to the deadline for the applicant to produce their written submissions, not a single medical record had been produced by the applicant. The respondent argues that it has been highly prejudiced by the lateness of the production of medical records because it has not had the opportunity or sufficient time to adequately review records, adjust the MIG and medical benefits that are in dispute, and determine whether an insurer's examination should be scheduled in light of the new medical evidence.
- [9] The applicant submits that the respondent was aware the applicant was seeing his family doctor post-accident by referencing an adjuster log note dated January 17, 2022, which indicates "spoke to clmnt [sic], seen his doctor and referred to PT, offered PPN but will try his clinic and see." The applicant submits that he fails to see how the respondent is prejudiced by the late submissions of medical evidence, when the evidence was readily available to the respondent prior to its s. 44 insurer examination, but the respondent did not request the medical records. The applicant acknowledges the late filing of documents but does not make submissions as to why they were not provided prior to the filing of his written submissions.
- [10] The respondent, in its reply motion submissions, argues that producing a considerable number of records at the time of the hearing, when no records were produced beforehand in breach of the CCRO, has caused it to be severely

prejudiced. This is because it would be forced to proceed to a hearing on new records that were never previously produced and reviewed, which could lead to an incorrect and improper finding against the respondent.

- [11] On February 3, 2026, the respondent's request to adjourn the matter was denied and the request to exclude documents was deferred to the hearing adjudicator.
- [12] Rule 9.3 of the *Licence Appeal Tribunal Rules, 2023* indicates that if a party fails to comply with any Rule, direction or order with respect to disclosure, exchange, production, or inspection of documents or things, that party may not rely on the document or thing as evidence without the permission of the Tribunal.
- [13] I have reviewed the CCRO and amended CCRO, dated November 28, 2024, and note that the respondent did not request any productions.
- [14] The documents filed with the applicant's submissions include:
1. GP records of Dr. Choi from January 5, 2019 to September 7, 2023
 2. GP records of Dr. Choi from May 1, 2024 to May 15, 2025
 3. Whitby Medical Centre from January 5, 2019 to July 15, 2024
 4. North York General Hospital Records from January 5, 2019 to September 7, 2023
 5. North York General Hospital Records from September 8, 2023 to May 1, 2024
 6. OHIP summary from January 5, 2019 to September 29, 2023
 7. OHIP summary from September 8, 2023 to June 7, 2024
 8. OHIP summary from June 8, 2024 to April 9, 2025
 9. CNRs of Success Rehab from January 5, 2019 to December 12, 2023.
- [15] The applicant submits that the clinical notes and records ("CNRs") of Whitby Medical Centre, North York General Hospital, and OHIP Summaries, were included in his hearing brief, but no actual reference was made to them in his written submissions. As such, the applicant relies mainly on the CNRs of his family practitioner, Dr. Choi, and Success Rehab.

- [16] I am prepared to grant the respondent's motion in part. Given that the applicant did not reference the CNRs for Whitby Medical Centre, North York General Hospital, and OHIP Summaries, and that they were filed in contravention of the CCRO, I will not permit this evidence to be included as part of the applicant's hearing brief.
- [17] However, I find that the prejudice to the applicant of not being able to rely on the evidence of his family doctor and treatment clinic would outweigh any prejudice to the respondent. I do not condone the applicant's untimely filing of documents; however, I think it is a foreseeable outcome that the applicant would choose to rely on their family doctor and treatment clinic records for a hearing. The evidence supports that the respondent was aware that the applicant saw his family doctor, but it is unclear whether the respondent requested these records at any point prior to the application. While I acknowledge the respondent's argument that the applicant has the burden to prove entitlement to medical and rehabilitative benefits, in my view, the respondent's claim of prejudice is less persuasive when it had the opportunity to request said records but chose not to. In any event, the delay in production will go to the weight to be given to the evidence.
- [18] In this way, while I am not bound by Tribunal decisions I differentiate the respondent's reliance on the Tribunal decisions in *Osei-Kumi v. Certas Home and Auto Insurance Company*, 2023 CanLII 2691 (ON LAT) and *18-002569 v Aviva Insurance Canada*, 2019 CanLII 22214 (ON LAT) because although the applicant admittedly produced the documents late, the applicant met the submissions deadline for the within hearing and the respondent had an opportunity to respond. The respondent also did not make any specific request for the documents.
- [19] The respondent's motion to expunge the applicant's evidence is granted, in part. Pursuant to Rule 9.3, I will not permit the inclusion of the CNRs for Whitby Medical Centre, North York General Hospital, and OHIP Summaries. I will allow the inclusion of the CNRs of Dr. Choi from January 5, 2019 to September 7, 2023, and from May 1, 2024 to May 15, 2025 and Success Rehab from January 5, 2019 to December 12, 2023.

Applicant's objection to page limits

- [20] The respondent, in its submissions, requests that its page count start on 'page 5' given that the Tribunal held that the procedural issues would be dealt with in the written hearing.
- [21] The applicant, in his reply submissions, objects to the respondent's page count starting on page 5.
- [22] I have reviewed the respondent's submissions and pages 1 through 4 deal with its motion to expunge the applicant documents, above. I also note that the respondent's submissions are 13 pages in length. The CCRO indicates that the respondent's submissions should be no longer than 12 pages. The applicant does not make submissions for any specific relief, nor does the applicant make submissions on how he has been prejudiced by the additional page.
- [23] As such, I will consider the respondent's submissions in their entirety.

ANALYSIS

Minor Injury Guideline

- [24] I find that the Applicant has not met his onus to demonstrate that his accident-related impairments warrant removal from the MIG.
- [25] 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 a "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."
- [26] An insured 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.
- [27] The applicant submits that due to cervical radiculopathy with foraminal narrowing, functional limitations, and suspected nerve involvement, his injuries place him outside of the MIG.

[28] The respondent submits that the applicant has failed to discharge his onus that his injuries fall outside of the MIG. The respondent relies on the s. 44 general practitioner assessment report of Dr. Sabrina Ming-Wai Tu, dated January 16, 2023, to support that the applicant sustained uncomplicated soft tissue injuries as a result of the accident, and as such, falls within the MIG.

a) *The applicant's physical injuries*

[29] The applicant submits that as a result of the accident he has experienced neck pain with radiation to the shoulders and arms; upper and lower back pain; shoulder pain and strain/sprain; hip and leg pain; persistent stiffness and limited range of motion; cervical spine degenerative changes and foraminal narrowing at C5-C6; neurological/radicular symptoms; symptoms consistent with cervical radiculopathy; and numbness and tingling in upper limbs. The applicant relies on an MRI of the cervical spine dated February 27, 2023, which revealed neural narrowing at the C5-C6 and MRI of the knee dated November 8, 2023, which revealed medical meniscal tearing bilaterally.

[30] Other than soft-tissue sprains and strains which fall within the definition of a "minor injury", the only other physical impairments the applicant has established are neurological symptoms/radiculopathy and meniscal tearing of the knees. However, I am not satisfied that the applicant has established that these are accident related.

[31] X-Ray of the cervical spine, dated January 13, 2023, reports early degenerative changes and no acute abnormality.

[32] MRI of the cervical spine, dated February 27, 2023, indicates severe right neural foraminal narrowing at the level C5-C6 due to uncovertebral joint osteoarthritis.

[33] The MRI of the bilateral knee dated August 11, 2023, reports medial meniscal tearing bilaterally, more noticeable on the right and small joint effusion to the right knee.

[34] The applicant has the burden to prove, on a balance of probabilities, that his physical impairments were caused by the accident. In the present case, the applicant has not directed me to evidence that suggests the radiculopathy and meniscal tearing are accident-related.

[35] I assign little weight to the handwritten notes of Dr. Choi because they are at times unclear and illegible. I note that on certain occasions Dr. Choi records "list of problems" as "MVA on Jan 5 22" and "neck with radiculopathy" within the

same entry, however, it is unclear whether the Dr. Choi is opining on or concluding that the radiculopathy is accident-related. I also agree with the respondent that the CNRs of Dr. Choi do not identify complaints of knee pain during the initial visit post accident, nor am I pointed to evidence of knee pain related to the accident in the remainder of these records. It is not clear from the CNRs of Dr. Choi when or why the MRI for knee pain was requisitioned.

- [36] I am not persuaded by the report and CNRs of Dr. Pezhman Mehrabian, pain medicine physician of The Pain Clinic, because of the inconsistencies found within this assessors reporting. In a report dated July 5, 2024, Dr. Mehrabian indicated that the neurological focused exams were within normal limit and compatible with the applicant's past medical history. Dr. Mehriban noted a positive facet loading test on the "right cervical", however, found negative results for the following tests: Neer and Hawkings-Kennedy, Speed's and Yergason's, empty can test, Tinel's and Phalen's test, and Spurling test. Despite Dr. Mehrabian highlighting the MRI dated February 27, 2023, of which indicates neural foraminal narrowing due to uncovertebral joint osteoarthritis, and the negative testing, Dr. Mehrabian concludes that "s/p MVA with" spinal right C5/6 foraminal stenosis (ICD-10:M48.0) with right C5 and C6 radiculopathy. While this entry indicates, in some way, that post-accident the applicant has radiculopathy, I find this conclusion to be contradictory with Dr. Mehrabian's own comments and testing. I also find that this statement is unclear as to whether the radiculopathy was caused by or as a result of the accident, rather than medical sequelae of uncovertebral osteoarthritis noted after the accident. Dr. Mehrabian also does not report any knee pain related complaints or make any knee related diagnoses.
- [37] Symptoms of radiculopathy, alone, are insufficient to remove an applicant from the MIG. There must be objective imaging, testing, or a diagnosis, and more critically, the radiculopathy must be caused by the accident. The applicant has not pointed me to any other medical opinion, expert report, or evidence that opines on the whether the applicant has radiculopathy as a result of the accident, nor meniscal tearing of the knees.
- [38] As such, I am not satisfied on a balance of probabilities that the applicant has sustained an accident-related physical injury that falls outside of the definition of a minor injury.

b) Chronic Pain

- [39] I am not satisfied that the applicant suffers from chronic pain that warrants removal from the MIG.
- [40] Although the applicant didn't specifically submit that he should be removed from the MIG due to chronic pain which limits his functionality, he argued that he suffers from functional impairment, difficulty with prolonged sitting, driving, and physical activity, and complaints of functional restrictions. Therefore, and keeping in mind the consumer protection mandate of the *Schedule*, I have considered whether the applicant should be removed from the MIG due to chronic pain with functional limitations.
- [41] It is well established by this Tribunal that chronic pain cannot be inferred solely based on the length of time elapsed since the injury. A diagnosis of chronic pain or chronic pain syndrome is not strictly required for removal from the MIG treatment limits. However, even with a diagnosis of chronic pain or chronic pain syndrome, the applicant must demonstrate, on a balance of probabilities, that he suffers from accident-related pain that is chronic in nature, and which causes functional impairment.
- [42] While Dr. Mehrabian diagnoses chronic pain on July 5, 2024, the CNR of Dr. Mehrabian dated October 25, 2024, notes the applicant's physical functioning and overall functioning as 'better'. There is no indication of what physical function the applicant is limited by within these CNRs.
- [43] The applicant directs me to the CNRs of Success Rehab to support that he has functional restrictions and impairment such as difficulty with prolonged sitting, driving, and physical activity, however, I find the CNRs to be virtually illegible. The applicant does not point me to a specific part of the CNRs wherein the alleged functional limitations are noted. The applicant does not direct me to any other evidence that supports chronic pain that causes functional impairment.
- [44] The applicant has the onus of evidencing chronic pain and in the present case, as there are no compelling expert reports or evidence that opines on chronic pain with functional limitations, the applicant has not done so.
- [45] Based on the foregoing, the applicant is not removed from the MIG on the basis of his alleged functional impairments.

Conclusion

[46] As a result of the aforementioned, the applicant has not proven, on a balance of probabilities, that he is suffering from physical injuries or chronic pain with functional limitations that would warrant removal from the MIG.

Treatment Plans

[47] Given that I have found the applicant to remain within the MIG, I find that it is not required to review the treatment plans in dispute to determine if they are reasonable and necessary. If there is funding left in the MIG, the applicant is entitled to treatment up to the MIG limit.

Interest

[48] As there are no overdue benefits the applicant is not entitled to interest pursuant to s. 51 of the *Schedule*.

ORDER

[49] I find that:

1. The applicant's injuries are predominantly minor, as defined by the *Schedule*;
2. As the applicant is in the MIG, it is not necessary to consider if the treatment plans in dispute are reasonable and necessary;
3. The applicant is not entitled to interest; and
4. The application is dismissed.

Released: March 13, 2026



**Nadia Mauro
Adjudicator**