



Tribunals Ontario

Licence Appeal
Tribunal

Tribunaux décisionnels Ontario

Tribunal d'appel en matière de
permis

Citation: Shagunpreet v Definity Insurance Company, 2026 ONLAT 25-007903/AABS

File Number: 25-007903/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:

Shagunpreet Shagunpreet

Applicant

and

Definity Insurance Company

Respondent

DECISION AND ORDER

ADJUDICATOR: Ulana Pahuta, Member

APPEARANCES:

For the Applicant: Pramod Kumar, Counsel

For the Respondent: Sonya Katrycz, Counsel

HEARD: By way of written submissions

OVERVIEW

[1] Shagunpreet Shagunpreet (the “applicant”) was involved in an automobile accident on February 20, 2024, when the Uber vehicle she was a passenger in was struck by another vehicle. The applicant sought accident benefits from the Uber driver’s insurance company, Definity Insurance Company (the “respondent”) 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 and applied to the Licence Appeal Tribunal (“the Tribunal”) for resolution of the dispute.

[2] At a case conference held on October 3, 2025 a written hearing was scheduled to address whether the applicant’s injuries were predominantly minor, as defined in s. 3 of the *Schedule*, and whether she was entitled to certain denied treatment plans. The respondent also raised the preliminary issue of whether the applicant should be barred from proceeding with her accident benefits claim due to her delay in reporting the accident and her intention to seek accident benefits.

PRELIMINARY ISSUE

[3] The preliminary issue to be decided is:

Is the applicant barred from proceeding to a hearing as they failed to notify the respondent of the circumstances giving rise to a claim for benefits no later than the seventh day after the circumstances arose or as soon as practicable after that day?

SUBSTANTIVE ISSUES IN DISPUTE

[4] The substantive 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 ("MIG") limit?
2. Is the applicant entitled to \$3,010.88 for physiotherapy services, proposed by Chinguacousy Physio and Foot Clinic in a treatment plan/OCF-18 ("plan") submitted May 6, 2025, and denied May 20, 2025?
3. Is the applicant entitled to \$2,200.00 for a psychological assessment, proposed by Saadia Akram-Pall Psychology Professional Corporation in a plan submitted June 11, 2025 and denied June 13, 2025?
4. Is the applicant entitled to \$2,200.00 for physiotherapy services, proposed by Chinguacousy Physio and Foot Clinic in an OCF-23 Treatment Confirmation Form submitted September 26, 2024 and denied October 4, 2024?
5. Is the respondent liable to pay an award under s. 10 of Reg. 664 because it unreasonably withheld or delayed payments to the applicant?
6. Is the applicant entitled to interest on any overdue payment of benefits?

RESULT

[5] I find that the applicant is statute-barred from proceeding to the hearing on the substantive issues.

[6] The application is dismissed.

ANALYSIS

Law

[7] Section 32(1) of the *Schedule* provides that a person who intends to apply for accident benefits shall notify the insurer of their intention no later than the seventh day

after the circumstances arose that give rise to the entitlement to the benefit, or as soon as practicable after that day.

[8] Once an insurer receives notice of an applicant's intention to apply for statutory accident benefits, the insurer must provide the applicant with the appropriate OCF-1 forms, a written explanation of the benefits available, information to assist the person in applying for benefits and information on the election relating to the specified benefits, if applicable (s. 32(2)). Pursuant to section 32(5) of the *Schedule*, the applicant must then submit a completed and signed application for benefits to the respondent within 30 days after receiving the forms.

[9] Section 34 of the *Schedule* states that "a person's failure to comply with a time limit set out in this Part does not disentitle the person to a benefit if the person has a reasonable explanation." The onus is on the applicant to establish a reasonable explanation for the delay. The interpretation of "reasonable explanation" is guided by *Horvath and Allstate Insurance Company of Canada*, 2003 ONFSCDRS 92 (CanLII), and was more recently reiterated in *K.H. vs Northbridge*, 2019 CanLII 101613 (ON LAT). The guiding principles are summarized as follows:

- a. An explanation must be determined to be credible or worthy of belief before its reasonableness can be assessed.
- b. The onus is on the insured person to establish a "reasonable explanation."
- c. Ignorance of the law alone is not a "reasonable explanation".
- d. The test for "reasonable explanation" is both a subjective and objective test that should take account of both personal characteristics and a "reasonable person" standard.
- e. The lack of prejudice to the insurer does not make an explanation automatically reasonable.
- f. An assessment of reasonableness includes a balancing of prejudice to the insurer, hardship to the claimant and whether it is equitable to relieve against the consequences of the failure to comply with the time limit.

[10] Pursuant to section 55(1)1, an insured person may not apply to the Tribunal if they have not notified the insurer of the circumstances giving rise to a benefit or have not applied for the benefit within the times set out in the *Schedule*.

Background and Parties' Positions

[11] The respondent submits that the applicant should be barred from pursuing her application as a result of her delay in notifying it of the accident and of her intention to seek accident benefits. It argues that the accident occurred on February 20, 2024, but the applicant did not report the accident to the respondent until September 26, 2024 when she submitted her Application for Accident Benefits ("OCF-1"), more than seven months later. The respondent further submits that the applicant has not provided a credible or reasonable explanation for the delay.

[12] The applicant argues that she has a reasonable explanation for any delay in reporting the accident to the respondent. She submits that at the time of the accident she was a student, new to the country, and did not know her legal rights after being involved in an accident with Uber. The applicant argues that she tried to contact Uber a number of times by phone and through the Uber app to obtain assistance, but Uber customer service did not provide any help. The applicant also argues that Uber would have been required under its policy to notify the respondent, and that the respondent was aware of the accident "but remained silent". She cites the Divisional Court decision *Hussein v. Intact Insurance Company*, 2025 ONSC 842 ("*Hussein*"), to argue that the respondent was obliged to reach out to the applicant to inform her of her right to claim accident benefits.

Did the applicant comply with the time limit set out in s. 32(1) of the Schedule?

[13] I find that the applicant was non-compliant with the time limit set out in s. 32(1).

[14] The applicant does not dispute that she first notified the respondent of her intention to pursue accident benefits on September 26, 2024, more than seven months

after the accident, when she submitted her OCF-1. I find that this is well-outside the time limit stipulated in s. 32(1) of the *Schedule*.

Does the applicant have a reasonable explanation for the delay?

[15] I find that the applicant has not provided a reasonable explanation for her delay in notifying the respondent of her intention to seek accident benefits.

[16] Although the applicant argues that she was unaware of her legal rights or that benefits were available to her following the accident, the respondent has cited a number of Tribunal decisions to argue that ignorance of the law or being unaware of insurance policy information are not reasonable explanations for a delay, see *Ozdemir v. Economical Mutual Insurance Company*, 2024 CanLII 13093 (ON LAT), *McDonald v. Definity Insurance Company*, 2025 CanLII 84226 (ON LAT), *Potvin v. Allstate Insurance Company of Canada*, 2024 CanLII 35852 (ON LAT), and *Chahal v. Economical Insurance Company*, 2024 CanLII 56773 (ON LAT). I agree with the respondent that the Tribunal has consistently held that ignorance of the law alone is not a reasonable explanation for a delay.

[17] Further, with respect to the applicant's argument that she made "best efforts" to obtain the insurance policy information from Uber but was denied, the applicant has not directed me to any evidence in support of this claim. In her submissions, the applicant argued that she tried to obtain the insurance information about the driver a number of times through the Uber app or by phone, but that Uber customer service did not provide any assistance. However, the respondent argues that this explanation is not consistent with the applicant's testimony at her Examination Under Oath ("EUO") held on December 17, 2024, where the applicant reported that the only reason why she delayed in applying for accident benefits, was because she was a student and wasn't aware that she could seek accident benefits. I further note that submissions alone are not evidence, rather, evidence must be provided in support of a claim. Without any supporting evidence from the applicant that she attempted to get insurance information from Uber

in the seven months post-accident, I find that the applicant has not met her onus to prove that this is a reasonable explanation for the delay.

[18] I further find that the applicant has not established that she was unable to pursue her accident benefits claim, as a result of being a student, new to the country, or being unable to secure counsel. Rather, at the EUO the applicant confirmed that at the time of the accident, she was working full-time at a sales job and had already completed a year-long diploma program in data analytics. Accordingly, I agree with the respondent that the applicant has not established that at the time of the accident, she was unable to pursue an accident benefits claim due to the fact that she was a student and new to the country. Although the applicant argues that she was unable to secure legal representation due to the fact that she was a student, the evidence establishes that the applicant was working full-time at the time of the accident, and that she returned to her full-time job two days later. The applicant has also not directed me to any evidence of attempts to secure counsel.

[19] The applicant has also not directed me to sufficient evidence that the delay was caused because she was “grappling with the physical and psychological injuries suffered in the accident”. The applicant has not directed me to any evidence that she sought medical treatment in the seven months post-accident. The applicant argues that this is because she did not have OHIP coverage during this period, but that she sought treatment through a physiotherapy clinic. However, I note that the applicant did not seek such treatment through the physiotherapy clinic until September 26, 2024, the day she filed her OCF-1. Further, even upon receiving OHIP coverage in November 2024, the applicant did not see a doctor until seven months later in June 2025. Accordingly, I find that the applicant has not established that she was unable to pursue her claim due to accident-related injuries.

[20] Finally, although the applicant relies on the Divisional Court decision *Hussein*, and the Tribunal decision *Benoit v. Sonnet Insurance Company*, 2025 CanLII 25859 (ON LAT) to argue that the respondent was required to inform her of her right to apply for accident benefits, I find that these decisions are distinguishable. In the decisions

cited by the applicant, the insurers were made aware of the accident within a day of the accident, and the claimants were found to have been compliant with s. 32(1) of the *Schedule*. In the present case, the applicant has not established that she was compliant with s. 32(1) of the *Schedule*, and she did not notify the respondent until seven months after the accident. The applicant submits that the respondent was in fact aware of the accident, because Uber would have been “bound by the terms of its policy” with the respondent to advise the respondent of the accident. However, the respondent submits that it was not in fact informed of the accident at any point prior to receiving the OCF-1 on September 26, 2024. Further, the applicant has not directed me to any evidence to support her argument that the respondent had been previously informed of the accident.

[21] Accordingly, I find that the applicant has not provided a reasonable explanation for the delay pursuant to section 34. Therefore, in accordance with section 55(1)1, I find that the applicant is barred from proceeding with the substantive issues in dispute.

ORDER

[22] The applicant is barred from proceeding with the substantive issues in dispute pursuant to section 55(1) of the *Schedule* for failure to comply with the time limits set out in section 32(1).

[23] The application is dismissed.

Released: October 8, 2026



Ulana Pahuta
Member