



Civil Resolution Tribunal

Date Issued: August 17, 2023

File: VI-2023-002257

Type: Motor Vehicle Injury

Category: Accident Benefits

Civil Resolution Tribunal

Indexed as: *Vlahos v. ICBC*, 2023 BCCRT 693

B E T W E E N :

MARK VLAHOS

APPLICANT

A N D :

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin, Vice Chair

INTRODUCTION

1. This is a final decision dismissing this claim as out of time.
2. This a claim for accident benefits against the respondent insurer, the Insurance Corporation of British Columbia (ICBC). The applicant, Mark Vlahos, says they were

riding their bicycle when they were struck by a vehicle on September 2, 2020. The say they injured their left hip, back, shoulder and elbow in the accident, and developed chronic left hip pain and inflammation. The applicant asks the CRT to determine whether the applicant is entitled to income replacement benefits.

3. Although the applicant frames his claim as one for “income replacement benefits”, ICBC says the applicant’s claim is for temporary total disability (TTD) benefits under Part 7 of the *Insurance (Vehicle) Regulation* (IVR) (also known as Part 7 benefits), based on the September 2, 2020 accident date. ICBC says the applicant is not entitled to any such benefits because they did not apply for them and they continued to work full time following the accident. ICBC also says the applicant’s claim is out of time under section 103(1)(b) of the IVR.
4. The applicant has also filed claims against the alleged driver and owner of the vehicle, which are the subject of a separate dispute (VI-2022-004592). I will not address those claims or that separate dispute in this decision.
5. The applicant is self-represented. ICBC is represented by an employee.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over accident claims brought under section 133 of the *Civil Resolution Tribunal Act* (CRTA). Section 133(1)(a) of the CRTA gives the CRT jurisdiction over the determination of entitlement to accident benefits.
7. Section 2 of the CRTA states that the CRT’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute’s parties that will likely continue after the CRT process has ended.
8. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination

of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.

9. Section 42 of the CRTA says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. .

ISSUE

10. The issue is whether the CRT should dismiss the applicant's claims as out of time under the IVR.

EVIDENCE AND ANALYSIS

11. In making this decision I have reviewed the Dispute Notice, the Dispute Response, and the parties' submissions and evidence on the limitation issue.
12. Section 103 of the IVR sets out the process for obtaining Part 7 benefits from ICBC..
13. Section 103(3) says an insured may give ICBC written notice of their intention to commence an action for accident benefits if their claim for benefits has been denied by ICBC or if ICBC has not made a payment within the time limits prescribed in section 101. Section 103(1)(b)(iii) says that, if an insured has not issued written notice under section 103(3), then any action (or claim) for Part 7 benefits must be filed within 2 years of the accident date, or of the last Part 7 benefit payment date.
14. As noted above, ICBC says the applicant did not provide written notice of their intention to commence an action for accident benefits under IVR section 103(3). The applicant does not deny this. Rather, they say they filed a claim with ICBC approximately 3 months after the September 2, 2020 accident. However, the applicant does not dispute ICBC's statement that ICBC paid no Part 7 benefits to the

applicant. Nor do they dispute ICBC's claim that the applicant continued to work full time following the accident.

15. Further, in their submissions, the applicant says their CRT claim is for "pain and suffering" for damage to their outer hip which resulted from the September 2, 2020 accident. They say they may have erroneously filed this accident benefits claim with the CRT. However, the applicant has not withdrawn their claim.
16. On balance, I find ICBC paid no Part 7 benefits for the September 2, 2020 accident, and I find the applicant provided ICBC with no written notice of their intention to bring this claim. So, under IVR section 103(1)(b)(iii), I find the applicant was required to start any claim for accident benefits by September 2, 2022, at the latest. I find the applicant failed to do so, as they did not file this CRT claim until March 2, 2023.
17. I acknowledge the applicant's arguments about the suspension of limitation periods during COVID-19. Under the *COVID-19 Related Measures Act* (CRMA), the *Covid-19 (Limitation Periods in Court Proceedings) Regulation* suspended limitation periods to start court actions. As explained in the non-binding but persuasive decision *Khairi v. Browne*, 2022 BCCRT 813, the suspension applied automatically to the courts, but not to administrative tribunals like the CRT.
18. The CRMA granted the CRT discretion to waive, suspend or extend a limitation period. However, that discretion was only effective up to 90 days after the COVID-19 state of emergency ended on June 30, 2021. So, I find the CRT no longer had the authority to suspend, waive or extend the limitation period for the applicant's accident benefits claim by the time the applicant filed their CRT claim on March 2, 2023.
19. Finally, I note that the applicant does not appear to want accident benefits, but rather claims non-pecuniary damages and potentially lost income or loss of opportunity damages as well. I find those claims are part of the separate dispute (VI-2023-004592).
20. For the above reasons, I find the applicant's claim for accident benefits is out of time under the IVR and I dismiss it.

21. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. ICBC was successful, so I find the applicant must reimburse ICBC \$25 in CRT fees. ICBC claims no dispute-related expenses.

ORDERS

22. Within 30 days of the date of this decision, I order the applicant to pay ICBC a total of \$25 as reimbursement of CRT fees.

23. ICBC is entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.

24. I dismiss the applicant's claims.

25. Under section 57 and 58 of the CRTA, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court or the British Columbia Provincial Court if it is under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

Sherelle Goodwin, Vice Chair