



Civil Resolution Tribunal

Date Issued: September 22, 2025

File: AB-2023-007734

Type: Accident Claims

Category: Accident Benefits

Civil Resolution Tribunal

Indexed as: *Watmough v. ICBC*, 2025 BCCRT 1330

BETWEEN:

ANDREW WATMOUGH

APPLICANT

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. The applicant, Andrew Watmough, was injured in a motor vehicle accident on December 17, 2021. Mr. Watmough says the respondent insurer, Insurance Corporation of British Columbia (ICBC), has refused to pay for necessary

treatments and rejected his claims without speaking to his doctor. He claims health care and rehabilitation benefits, income replacement benefits, loss-of-studies benefits, and permanent impairment compensation. Mr. Watmough represents himself.

2. ICBC says Mr. Watmough has not proven his entitlement to further benefits or compensation under the applicable legislation. Primarily, it says the health issues he experienced after the accident were not caused by the accident. An employee represents ICBC.

JURISDICTION AND PROCEDURE

3. 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). CRTA section 133(1)(a) gives the CRT jurisdiction over the determination of entitlement to accident benefits.
4. CRTA section 2 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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. Section 39 of the CRTA says that the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Credibility is at issue in this dispute for Mr. Watmough and, to some extent, the medical professionals who have assessed him. However, I find that I am properly able to assess and weigh the documentary evidence and submissions before me to make credibility findings. Further, neither party asks for an oral hearing. Bearing in mind the CRT's mandate that includes proportionality and efficiency, I adjudicated this dispute on the written materials before me.

6. CRTA section 42 says that the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

ICBC's conduct

7. Mr. Watmough made submissions about ICBC's conduct while handling his claim. He says ICBC tossed him between adjusters, refused contact for months at a time, and failed to speak to his doctors. Previous CRT decisions, such as *Oloumi v. ICBC*, 2022 BCCRT 1342, have held that the CRT's accident benefits jurisdiction is narrow, and allegations about ICBC's conduct are generally outside its scope. While those decisions are not binding on me, I agree with the analysis and adopt it here. So, I do not address the merits of Mr. Watmough's allegations about ICBC's conduct.
8. However, I am free to consider any evidence Mr. Watmough has obtained before and after ICBC's decision to close his claim. I also note that the CRT does not defer to ICBC's assessments of the medical evidence.

Expenses to attend the independent medical examination

9. In submissions, Mr. Watmough seeks an order for reimbursement of flights and other expenses he incurred to attend a May 2023 independent medical examination in Vancouver. ICBC did not provide submissions about this issue, likely because Mr. Watmough raised it only in the space designated for dispute-related expenses. The independent medical exam occurred before the CRT dispute began and therefore is not a dispute-related expense.
10. The Dispute Notice filed at the outset of this dispute did not mention travel expenses as something Mr. Watmough was claiming, and neither did Mr. Watmough's main submissions. So, I find ICBC did not have notice of this issue, and it would be unfair for me to decide it. I therefore refuse to resolve this potential claim.

ISSUES

11. The issues in this dispute are:

- a. What injuries did the accident cause?
- b. Must ICBC reimburse past health care and rehabilitation expenses or approve further health care and rehabilitation benefits?
- c. Must ICBC pay income replacement benefits or loss-of-studies benefits?
- d. Is Mr. Watmough entitled to permanent impairment compensation?

BACKGROUND, EVIDENCE AND ANALYSIS

12. As the applicant in this civil proceeding, Mr. Watmough must prove his claims on a balance of probabilities, meaning “more likely than not”. While I have read all the parties’ evidence and submissions, I only refer to what is necessary to explain my decision.

13. The materials before me indicate that Mr. Watmough has dealt with life circumstances any person would find challenging. He has a family psychiatric history. He has a number of diagnosed and suspected conditions, including type 2 diabetes, fibromyalgia, asthma, generalized anxiety disorder, and bipolar II disorder. He is unable to tolerate most of the antipsychotic and mood stabilizing medications he has been prescribed. He has been to the local hospital’s emergency room many times for physical and mental health issues.

14. At the time of the accident, Mr. Watmough was enrolled in the College of New Caledonia’s Automotive Service Technician Foundations program. He was also self-employed as a photographer.

15. As noted above, the accident happened on December 17, 2021. Mr. Watmough was stopped at a red light and honked at the driver in front of him to go. After they started moving, he says the other driver brake-checked him in retaliation, leading to

a collision. The damage to his pickup was minor – the front bumper was cracked and chipped on the passenger side. The airbags did not deploy. Mr. Watmough did not lose consciousness.

16. Mr. Watmough says he went to the hospital around 10 pm that evening with a headache and nausea, and was diagnosed with a concussion. For reasons that are not explained, the notes or chart from that hospital visit are not before me. However, ICBC does not dispute that he attended the hospital that night, or that he was diagnosed with a concussion.
17. On December 22, 2021, BC Ambulance Service attended Mr. Watmough's home and took him to the hospital for a headache. The notes say that since the accident, Mr. Watmough felt increasingly anxious with splitting headaches, nausea, full body aches, and fatigue.
18. Mr. Watmough submitted his own notes about the accident and the three weeks that followed. He does not say whether he created these notes contemporaneously, or whether he routinely kept a journal. The notes are typed in a document and there are only eight entries, dated between December 17, 2021, and January 6, 2022. In any event, Mr. Watmough says he went to the emergency room three times by January 6, 2022, for concussions symptoms, including once to have a CT scan. Other reports referring to a CT scan say it was negative. I accept that Mr. Watmough experienced concussion-like symptoms in the weeks after the accident.
19. On January 6, 2022, Mr. Watmough submitted an accident benefits application to ICBC. On January 7, 2022, Mr. Watmough visited his family physician, Dr. Stacy Cabage, for the first time since the accident. He reported frequent headaches, poor judgment, poor impulse control, aggression, psychosis, worsening depression, panic attacks, and insomnia. Dr. Cabage did not recommend any treatment other than the physiotherapy she noted ICBC was arranging.

20. On January 13, 2022, Mr. Watmough reported no improvement to Dr. Cabage. However, she approved his requested return to school, as he had “no neurological signs.”
21. On February 7, 2022, Mr. Watmough went to the local hospital’s emergency room. Dr. Barbara Kane noted Mr. Watmough reported feeling that he had suffered a brain injury. He was overwhelmed by screen use at school.
22. On February 18, 2022, Mr. Watmough reported to Dr. Cabage severe migraines and difficulty looking at screens. On his request, Dr. Cabage wrote him a note supporting medical withdrawal from school as a result of “migraines/post concussive symptoms after motor vehicle accident.” Mr. Watmough withdrew from school.
23. In May 2022, Mr. Watmough moved to a new city to start new job with Wolverine Automotive. His last day with Wolverine was June 6, 2022.
24. On June 9, 2022, Dr. Cabage completed an ICBC standard medical report. She said that after the accident, Mr. Watmough initially had a splitting headache and felt that symptoms were the result of whiplash. She said he was still reporting frequent headaches, feeling “foggy”, and experiencing a lack of judgment and impulse control. His CT scan was unremarkable. Dr. Cabage diagnosed Mr. Watmough with post-concussion syndrome. She wrote that Mr. Watmough was working modified duties. Dr. Cabage could not determine whether he would return to normal function, as he had bipolar and anxiety diagnoses. She wrote that Mr. Watmough felt that the accident had exacerbated his mental health issues. She recommended “Physio, TENS, yoga”.
25. On December 13, 2022, Dr. Cabage completed an ICBC reassessment medical report. She said Mr. Watmough was currently incapable of working. She said he reported poor memory, inability to organize workflow, difficulty with word finding, difficulty following instructions, inability to process information, fibromyalgia symptoms, weakness, personality change with worsened aggression and anger, and decreased motivation, among other things. Dr. Cabage said it was unclear the

degree to which post-concussion symptoms “have impacted pre-existing bipolar syndrome/anxiety.” She referred Mr. Watmough to a brain injury group for a neuropsychology assessment.

26. In February 2023, ICBC spoke with Dr. Cabage. According to ICBC’s notes, she said Mr. Watmough probably had a mild concussion from the accident, but he also tended to catastrophize issues. Dr. Cabage was largely unsure whether his symptoms and his inability to work or attend school could be attributed to the accident. I find these notes are reliable because they are consistent with Dr. Cabage’s notes of the same discussion.
27. On May 3, 2023, neuropsychologist Dr. Wilbert Reimer performed and reported on an independent medical examination. I discuss the results of that assessment below.
28. On May 15, 2023, ICBC issued a formal decision letter about Mr. Watmough’s eligibility for health care and rehabilitation benefits, income replacement benefits, and loss-of-studies benefits. As set out in the letter, ICBC did not accept that the accident caused Mr. Watmough a mild traumatic brain injury. It did accept that he had soft-tissue and whiplash aggravations but noted that he had pre-existing fibromyalgia and chronic pain. It said the evidence did not support further therapy, so it would not fund any more. It made an exception for 30 sessions with a PhD-level psychologist as recommended by Dr. Reimer, which had to be completed within four months. It said Mr. Watmough was not eligible for income replacement benefits or loss-of-studies benefits because the accident did not “solely cause” his difficulties studying or maintaining employment.
29. I acknowledge that in its decision letter, ICBC noted that Dr. Cabage had indicated that he had “Post Concussional Syndrome (2019)”. Dr. Cabage later clarified that this was an error and Mr. Watmough had not suffered a concussion before the accident. That is not disputed here.

What injuries did the accident cause?

30. Mr. Watmough's claims for compensation or benefits all depend on his proving that the accident caused injuries that required treatment, impaired him, or prevented him from working or studying. This is because part 10 of the *Insurance (Vehicle) Act* (IVA) applies to accidents where there is bodily injury (meaning any physical or mental injury) caused by a vehicle.
31. ICBC's repeated use of the expression "sole cause" in its decision letter and its submissions is troubling. That language does not appear in the legislation. ICBC does not provide any authority for the notion that such a high standard of causation applies. The common law test for causation is the "but for" test, as set out in *Athey v. Leonati*, 1996 CanLII 183. It provides that a defendant's negligence does not need to be the sole cause of the plaintiff's damages. As long as it is a cause, the presence of other causes does not reduce the extent of the defendant's liability. Applied here, the accident does not need to be the sole cause of Mr. Watmough's injuries or symptoms, but it does need to be a necessary cause.
32. Another relevant principle from the common law is that a defendant need not put the plaintiff in a position better than their original position. That is, the defendant does not need to compensate the plaintiff for any debilitating effects of pre-existing conditions that the plaintiff would have experienced anyway. Applied here, ICBC does not need to fund treatment of Mr. Watmough's pre-existing conditions or pay benefits if he would not have been able to work or study regardless of the accident.
33. As the applicant, Mr. Watmough must prove that the accident was a cause of his injuries that require treatment or prevent him from working or studying. ICBC must prove its assertion that Mr. Watmough suffered from pre-existing conditions that would have required treatment or prevented him from working or studying.
34. Mr. Watmough says he suffered a concussion in the accident and now has post-concussion syndrome. He says he cannot work, cannot pay for treatment, and cannot return to school.

35. I summarize Mr. Watmough's extensive description of his current symptoms as follows. He experiences migraines and months-long bouts of intermittent hemiplegia (loss of feeling on one side of the body). He experiences extreme sensitivity to light and noise. He has severe pain, weakness, and a loss of feeling in his hands, wrists, arms, feet, ankles, legs, shoulders, neck, face and scalp. He experiences severe, constant exhaustion. He wakes in a panic with a racing heart. He has nightmares. He has full body or sometimes specific body part shaking or tremors. He experiences sensory disturbances like smells that do not exist, colourful auras, and extreme pain from light touch. He experiences blurry vision, an inability to focus his eyes, and a lack of balance and coordination. He has difficulty processing information. He suggests the accident caused or exacerbated all these symptoms.
36. Mr. Watmough acknowledges that he has fibromyalgia, mental health issues, and some history of migraines, but he says none of these things were debilitating before the accident.
37. ICBC says Mr. Watmough has a long history of pre-existing health problems and conditions. Clinical records show he has experienced light-headedness, imbalance and dizziness since 2018. In November 2020, he was referred to a vestibular physiotherapist for those issues, but the physiotherapist, Carly Chuby, did not believe the issues were vestibular in origin. He reported having chronic low back pain since his teenage years. In November 2021, just before the accident, Mr. Watmough was reporting anxiety, painful joints, migraines, and nausea.
38. Many legal decisions, such as *Ford v. Lin*, 2021 BCSC 456 at paragraph 22, caution that even minor accidents, with little or no vehicle damage, can produce injuries that do not resolve quickly. In claims involving injuries where there are few objective signs of those injuries, credibility and reliability play important roles. Credibility is about whether the person is telling the truth. Reliability is about whether the person's evidence is accurate, regardless of their intentions. A credible witness may provide unreliable evidence. This is because even an honest witness can misperceive things, have poor memory, or just be wrong.

39. I generally accept Mr. Watmough's evidence about his symptoms. I find he is likely being truthful about what he has experienced since the accident. However, the evidence supports Dr. Cabage's observation that he has a tendency to catastrophize, meaning to magnify negative situations. I find his reliability as a witness is compromised by his all-consuming focus on the accident and what he believes to be its impacts on him.
40. Mr. Watmough appears to blame every new physical symptom on the accident. For example, on March 24, 2023, Dr. Cabage's notes say Mr. Watmough had been limping for four days, and he believed the accident "destroyed his left hip." This appears to be the first post-accident complaint Mr. Watmough made about his hips. It seems unlikely that an accident could cause a hip injury with the symptoms manifesting only 14 months later. There is no medical explanation for this in the evidence.
41. Similarly, on December 13, 2024, Dr. Cabage noted that Mr. Watmough reported that he has had bilateral wrist and shoulder pain and temporomandibular joint pain since the accident. He did not complain about pain in any of these areas immediately after the accident, or at any time before December 13, 2024. Without a medical explanation, I cannot conclude on a balance of probabilities that these issues were caused by the accident three years earlier.
42. Mr. Watmough also minimizes his pre-accident symptoms. For example, Mr. Watmough says his headaches before the accident were "a few days of inconvenience and dizziness" without light or sound sensitivity. However, in December 2020, a year before the accident, he reported that his headaches and nausea lasted for 2 to 3 weeks at a time, and nothing made them go away. He also felt "out of equilibrium all the time." Dr. Cabage noted that his headaches came with photophobia and phonophobia (hypersensitivity to light and sound).
43. On November 24, 2021, just a few weeks before the accident, Mr. Watmough reported increased nausea for the last two months as a result of migraines, school stress, and not eating well. He said he had experienced muscle tightness and

chronic pain since childhood. He reported chronic pain in his knees, ankles, hips, arms, chest, and lower- and mid-back.

44. Based on this, I find that Mr. Watmough's evidence about his injuries and symptoms before and after the accident is not entirely reliable. I find that he has forgotten or minimized his pre-accident symptoms, and that he overattributes his current symptoms to the accident.
45. My views about the reliability of Mr. Watmough's evidence are also informed by the independent medical evidence that I discuss below.

Dr. Reimer's independent medical examination

46. On May 3, 2023, Dr. Reimer assessed Mr. Watmough. Dr. Reimer is a registered psychologist. He has a PhD in psychology and has published in the fields of neuropsychology and brain injury. He has previously been qualified as an expert in psychology and related subjects in the BC Supreme Court and BC Provincial Court. I find he is qualified to give an expert opinion on psychology and brain injury.
47. Dr. Reimer said Mr. Watmough's responses indicated that he experiences functional impairment due to symptoms associated with sensory or motor dysfunction, and frequent physical symptoms. Dr. Reimer rejected Mr. Watmough's responses on questionnaires about attention, focus, head injuries, and concussions. In those questionnaires, Mr. Watmough endorsed all or nearly all the items at the highest level. Dr. Reimer said this typically indicates the person is exaggerating their symptoms.
48. Dr. Reimer concluded the following. It was unlikely that Mr. Watmough's symptoms were primarily related to the accident, but it was possible his mental health was worsened by the accident. His test scores were not consistent with someone who has had a mild traumatic brain injury. He did not meet the criteria for a neurocognitive disorder. It was highly unlikely that he suffered any lasting neurocognitive effects as a result of the accident.

49. Dr. Reimer also questioned the accuracy of the post-concussion syndrome diagnosis. He said he did not see any formal assessment completed to confirm the diagnosis. Dr. Reimer said that it is possible to have symptoms similar to post-concussion syndrome with a whiplash injury. In any event, Dr. Reimer noted that the symptoms of post-concussion syndrome, including mood changes, fatigue, memory problems, dizziness, headaches, and diffuse pain, overlap significantly with Mr. Watmough's pre-existing conditions like bipolar disorder II, headaches, vertigo, and fibromyalgia. Dr. Reimer concluded that Mr. Watmough's symptoms are unlikely the result of any brain injury
50. I note that in one location in Dr. Reimer's report he said the post-concussion diagnosis was made in on December 17, 2019. As I noted above, Dr. Cabage corrected the record with ICBC on this point in July 2023. However, it is clear from the rest of Dr. Reimer's report that he did not attribute any of Mr. Watmough's symptoms to a previous concussion, and he did not question the post-concussion syndrome diagnosis on the basis of its date, but rather its inconsistency with his observations.

Evidence after ICBC's decision

51. Mr. Watmough saw a chiropractor, Dr. Cody Rondeau. Dr. Rondeau's November 3, 2024, notes indicate a diagnosis of post-concussion syndrome. However, Dr. Rondeau's qualifications, other than being a chiropractor, are not before me. There is no evidence that Dr. Rondeau is qualified to diagnose post-concussion syndrome, so I put little weight on this diagnosis.
52. Dr. Cabage prepared a note for Mr. Watmough on April 24, 2025. She wrote that Mr. Watmough experienced a concussion secondary to the accident. Dr. Cabage said Mr. Watmough has had multiple symptoms of post-concussion syndrome since then. She said the syndrome is a clinical diagnosis, where lesions are not seen on brain imaging. She said she made the diagnosis on February 18, 2022, which I find is generally supported by her brief clinical notes from that day.

53. Dr. Cabage then explained that Mr. Watmough's current symptoms make him unable to pursue work of any type. She said he had previous diagnoses of fibromyalgia and migraines before the accident. She said there is good evidence that these pre-existing conditions may make people vulnerable to worse outcomes following a concussion. However, she did not say that her opinion is that Mr. Watmough's concussion did in fact exacerbate his pre-existing conditions.
54. On May 30, 2025, Dr. Cabage wrote that Mr. Watmough had a "clinical diagnosis of posttraumatic stress disorder secondary to MVA December 17, 2021." No further details were provided about how this diagnosis was made, or what it means as far as Mr. Watmough's functional abilities. So, I put little weight on this evidence.
55. Mr. Watmough says the diagnosis now being explored is "central sensitization syndrome/disorder". In Dr. Cabage's notes, March 14, 2025, she said, "he feels that symptoms worsened after concussion, which is highly possible with central sensitization syndrome." As the diagnosis is only being explored, I find the evidence too speculative to reach any conclusions about central sensitization syndrome.

Conclusion

56. None of the recent evidence from Dr. Cabage is sufficient, in my view, to usurp her February 2023 assessment that she was unsure whether Mr. Watmough's symptoms could be attributed to the accident. It appears to me that Dr. Cabage is doing her best to help a patient with a complex group of symptoms and underlying health concerns. To a degree, she appears to be advocating for her patient, and this reduces the weight I give her more recent notes where they have diverged from past notes without explanation.
57. While I have considered all the evidence, I put the most weight on Dr. Reimer's report. Where it conflicts with Dr. Cabage's evidence, I prefer Dr. Reimer's, in part because he does not have a long-standing relationship with Mr. Watmough. I note that Dr. Reimer reviewed Dr. Cabage's notes and still questioned the diagnosis of

post-concussion syndrome. So, I find his opinion is that Dr. Cabage's diagnosis is not objectively supported.

58. I conclude that Mr. Watmough may have suffered a mild concussion or whiplash, but that it did not have lasting effects beyond a few weeks after the accident. The evidence does not support a post-concussion syndrome diagnosis. Mr. Watmough experienced many of the physical and cognitive symptoms he complains of now before the accident, and in all likelihood those symptoms would have continued. The new symptoms he experiences do not appear to be connected to the accident.

Health care and rehabilitation benefits

59. IVA section 123 requires ICBC to pay or reimburse an insured for reasonable expenses for necessary health care due to their accident injuries. Section 19 of the *Enhanced Accident Benefits Regulation* (EABR) says an insured is entitled to certain pre-approved treatments within 12 weeks of an accident. After that, EABR section 19(3) says ICBC only needs to cover treatment if it will (a) facilitate the insured's recovery or (b) address a decline in their physical or mental function from their accident injuries. These benefits are paid or reimbursed as the treatment expenses are incurred, not paid in a lump sum in advance.
60. ICBC funded 15 physiotherapy sessions and two chiropractic sessions for Mr. Watmough. Mr. Watmough stopped chiropractic treatments because they were too painful. The physiotherapy sessions occurred somewhat sporadically between January 2022 and May 2023.
61. As I noted above, ICBC approved Dr. Reimer's recommended 30 sessions with a PhD level therapist". Mr. Watmough did not schedule or attend these sessions. Mr. Watmough does not say that he wants this treatment, so I have not considered whether ICBC still has an obligation to fund it.
62. Mr. Watmough claims reimbursement for "any and all" treatments, and transportation, paid out of pocket in the past. He does not say how much this is. He says he continued with physiotherapy with Matthias Muller of PhysioNorth until

December 2023. Invoices suggest he paid \$320 for these treatments. The difficulty for Mr. Watmough is that there is no evidence from a physiotherapist or a doctor stating that further physiotherapy would have been beneficial for him beyond what ICBC covered to May 2023.

63. Mr. Watmough also says Mr. Muller recommended craniosacral massage. I acknowledge that Mr. Watmough says Mr. Muller has some kind of certification in concussion rehabilitation, but Mr. Muller's qualifications are not before me. In any event, nothing explains why craniosacral massage would likely help Mr. Watmough recover from the accident or address a decline in function.
64. I acknowledge that on September 6, 2024, Dr. Cabage recommended vision therapy, craniosacral massage therapy, and physiotherapy for increased strength in all extremities. Dr. Cabage did not provide any explanation for these new recommendations, including how these additional treatments would help Mr. Watmough recover or address a decline in function related to the accident. In the absence of any other explanation, I find Dr. Cabage likely recommended these new treatments because Mr. Watmough asked for them. I do not find this is an appropriate basis to order ICBC to fund new treatments.
65. On November 15, 2024, Dr. Cabage said Mr. Watmough continues to require care from a chiropractor for concussion rehabilitation. It is important to note the context in which Dr. Cabage made this recommendation. It was to address "fibromyalgia/chronic pain/vestibular migraines/postconcussion syndrome/vestibular and vision deficits". I accept that Dr. Cabage recommended this treatment to help Mr. Watmough. However, without further explanation, I am not persuaded that this treatment would address a decline in function caused by the accident or assist in his recovery from the accident.
66. For these reasons, I find Mr. Watmough is not entitled to further health care and rehabilitation benefits.

Personal care assistance

67. Mr. Watmough claims unspecified amounts for personal care assistance, or help with his activities of daily living. He says he needs help with cleaning, cooking, yard work, snow clearing, and organizing and maintaining his home.
68. IVA section 125(1) says that if an insured is unable to perform their daily living activities without assistance due to their accident-related injuries, they are entitled to payment or reimbursement of reasonable and necessary expenses incurred to have someone help them with those activities.
69. There is no evidence that Mr. Watmough inquired with ICBC about personal care assistance. Mr. Watmough relies on a September 6, 2024 note from Dr. Cabage. The note said that Mr. Watmough is currently “on a waitlist to see a neurologist and requiring home care support for housekeeping duties.” There is no indication that Dr. Cabage assessed the extent to which Mr. Watmough required home care support, or whether he required it because of the accident. So, the medical evidence does not support reimbursement for personal care assistance.
70. The other difficulty for Mr. Watmough is that personal care assistance expenses are paid or reimbursed as they are incurred. Even if I found the accident caused him to require help with his daily living activities for a period, there is no evidence he has hired anyone to help him or incurred any expenses.
71. For these reasons, I dismiss Mr. Watmough’s claim for personal care assistance.

Loss-of-studies benefits

72. Benefits for students are provided under IVA part 10, and part 9 of the *Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation* (IRBR). Under IVA section 113, a student is defined as an insured who, at the time of the accident, is attending a school or educational institution on a full-time basis. IRBR section 51, as it applies to this dispute, says a full-time basis means the student attends regularly, meets the requirements, and is considered a

full-time student by the institution. Based on Mr. Watmough's academic transcripts, I find that when the accident happened, he was a full-time student at College of New Caledonia in the Automotive Service Technician Foundations program.

73. IVA section 136 provides loss-of-studies benefits to students who are unable, because of the student's bodily injury, to begin or continue full-time studies.
74. On January 13, 2022, Dr. Cabage medically cleared Mr. Watmough to return to school. However, on February 16, 2022, he approached her seeking medical withdrawal. Mr. Watmough says after the accident he could not look at screens, kept forgetting what he was doing in the shop, could not make sense of diagrams, and could not remember procedures or choose the correct tools, among other issues.
75. On March 18, 2022, Mr. Watmough formally applied to withdraw from the Automotive Service Technician program. He provided a note from Dr. Cabage stating that in her opinion, Mr. Watmough had medical circumstances that severely inhibited his ability to successfully complete the program. In her notes, Dr. Cabage wrote that Mr. Watmough was unable to do screen time due to "migraines / post concussive symptoms after motor vehicle accident." The institution granted Mr. Watmough's withdrawal request and provided a full tuition refund.
76. ICBC says Mr. Watmough has a well-documented history of difficulty in academic settings. However, Dr. Reimer concluded that Mr. Watmough's academic abilities do not restrict him. I infer that ICBC is referring to Mr. Watmough's two previous withdrawals from the Automotive Service Technician program for medical reasons. In 2018, he withdrew with the support of a psychiatrist for anxiety and mental illness. In 2019, he withdrew with the support of Dr. Cabage for symptoms that were "likely benign position vertigo" and caused safety considerations in the shop.
77. I do not agree with ICBC that the 2022 withdrawal follows a pattern of withdrawals. It was not for the same reasons. This time, it was migraines and an intolerance of screens, which Dr. Cabage said were linked directly to the motor vehicle accident.

Dr. Reimer's report does not suggest Mr. Watmough was unlikely to have experienced these symptoms in the weeks after the accident.

78. ICBC says when it spoke with Dr. Cabage, she was unable to unequivocally state that Mr. Watmough's academic difficulties were "solely caused by the 2021 MVA". As I explained above, it is not necessary that the accident be the sole cause of the inability to continue full-time studies. Rather, it must only be a necessary cause. I accept that Mr. Watmough likely experienced more severe migraines, more confusion, screen intolerance, and increased anxiety in the weeks after his accident, all as a result of the accident. There is no evidence he was struggling academically before the accident. I find Mr. Watmough likely would not have withdrawn from the program had the accident not happened. So, I find he is entitled to loss-of-studies benefits.
79. Under IRBR section 53, ICBC must pay the greater of a) any non-refundable tuition or b) a lump-sum payment of \$10,550 for each term not completed at the post-secondary level. This payment is to be made at the end of the term the student does not complete. Mr. Watmough's tuition refund was less than \$10,550. So, I order ICBC to pay him \$10,550.
80. For clarity, I find Mr. Watmough has not proven that the accident prevented him from attempting the Automotive Service Technician course again starting in 2022 or later.

Income replacement benefits for students

81. IVA section 137 says that a student is entitled to income replacement benefits if they are unable to hold employment, or if they are deprived of benefits under the *Employment Insurance Act*, due to an accident.
82. IVA section 138 says that a student is entitled to income replacement benefits if they cannot begin or continue studies, and are unable to hold employment after the "specified date". IVA section 135 says the specified date is the date ICBC is satisfied the insured would have completed studies, but for the accident.

83. ICBC says Mr. Watmough is not entitled to income replacement benefits because he was capable of working, and did work, shortly after the accident.
84. Payroll records show that Mr. Watmough obtained work at an automotive shop in May 2022, the month after his Automotive Service Technician Foundations program was scheduled to finish.
85. Mr. Watmough was fired from this shop after less than a month. He says he was fired because he had to take time off for post-concussion symptoms. I find this unproven. The doctor's note he provided only said he had a flare-up of a pre-existing condition. Nothing in Dr. Cabage's notes at that time suggested he was unable to work due to the accident.
86. In December 2022, Dr. Cabage noted that Mr. Watmough was "currently incapable of work." However, she also noted it was "unclear how much post concussion symptoms have impacted pre-existing bipolar syndrome/anxiety." Further, in Dr. Cabage's notes from September and November 2022, there are references to Mr. Watmough's employment at a drug store. Mr. Watmough says he needed medical leave from the drug store in late 2022 but returned in 2023, only to quit for "numerous reasons" that I find are unrelated to injury symptoms. In 2024, he worked as an oxygen equipment services technician. Overall, I agree with ICBC that Mr. Watmough has not proven that he was unable to hold employment because of the accident.
87. Before and after the accident, Mr. Watmough was also undisputedly self-employed as a photographer. He says his earnings suffered as a result of the accident, but his tax returns show business income in 2021, 2022, 2023 and 2024 of \$1,741, \$1,039, \$2,500, and \$1,744, respectively. His earnings fluctuated. While the year 2022, right after the accident, had the lowest earnings, the year after had the highest earnings. I am unable to conclude that Mr. Watmough's earnings drop in 2022 was related to the accident rather than a normal business fluctuation. In any event, I find it unproven that the accident affected his ability to pursue his photography business for any significant length of time. I say this in part because Mr. Watmough has not

provided a breakdown of the income from different sources, such as more active sources like event photography and more passive sources like gallery sales.

88. With that, I dismiss Mr. Watmough's claim for income replacement benefits.

Permanent Impairment Compensation

89. IVA section 129(1) says that if an insured suffers a permanent impairment from an accident, they are entitled to a lump sum payment for that impairment.

90. ICBC says Mr. Watmough is not entitled to permanent impairment compensation because he does not have any permanent impairments.

91. Mr. Watmough says he is unsure of what permanent impairment he may qualify for. He does not identify any static or stabilized impairment under the PIR. He says he is on several waitlists for specialists to explore any permanent impairments that cannot be explored with local doctors. For this reason, I dismiss his claim for permanent impairment compensation at this time. Nothing in this decision prevents Mr. Watmough from applying to ICBC for permanent impairment compensation if he discovers a permanent impairment arising from the accident, or from starting a new CRT claim if he then disagrees with ICBC's decision.

FEES, EXPENSES AND INTEREST

92. The *Court Order Interest Act* applies to Mr. Watmough's \$10,550 in loss-of-studies benefits. ICBC should have paid the benefits when Mr. Watmough's semester ended, which according to his academic transcript was April 14, 2022. Interest from April 15, 2022 to the date of this decision equals \$1,385.42.

93. Under CRTA section 49 and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. Mr. Watmough's fees were waived, and ICBC paid only \$25. As Mr. Watmough was partially successful, I order him to reimburse half of ICBC's \$25 in CRT fees, which is \$12.50.

94. Mr. Watmough originally claimed \$150 in dispute-related expenses but revised this to \$75 he paid for copies of his physiotherapist's notes, and \$20 he paid for a medical note. These are supported by receipts. I order ICBC to reimburse him half these amounts, which is \$42.50. The net result for fees and expenses is that I order ICBC to reimburse Mr. Watmough \$30.

ORDERS

95. Within 30 days of the date of this decision, I order ICBC to pay Mr. Watmough a total of \$11,965.42, broken down as follows:

- a. \$10,550 in loss-of-studies benefits,
- b. \$1,385.42 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$30 in dispute-related expenses.

96. Mr. Watmough is also entitled to post-judgment interest under the *Court Order Interest Act*.

97. I refuse to resolve Mr. Watmough's claim for expenses related to the independent medical examination.

98. This is a validated decision and order. Under CRTA sections 57 and 58, a validated copy of the CRT's order can be enforced through the Supreme Court of British Columbia or the Provincial Court of British Columbia 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.

Micah Carmody, Tribunal Member

