



Civil Resolution Tribunal

Date Issued: September 22, 2025

File: AB-2024-007939

Type: Accident Claims

Category: Accident Benefits

Civil Resolution Tribunal

Indexed as: *Johnson v. ICBC*, 2025 BCCRT 1328

BETWEEN:

NATAUSHA JADE JOHNSON

APPLICANT

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Maria Montgomery

INTRODUCTION

1. This dispute is about entitlement to health care benefits and income replacement benefits.

2. On December 3, 2023, the applicant, Natausha Jade Johnson, was injured in a motor vehicle accident. Ms. Johnson says the respondent insurer, Insurance Corporation of British Columbia (ICBC), has not paid her all the health care and rehabilitation benefits or income replacement benefits that she is entitled to.
3. ICBC says it has funded all treatments to which she is entitled under the *Insurance (Vehicle) Act* and Ms. Johnson has not proved that she is entitled to more. ICBC also says some of Ms. Johnson's claims were not included in her Dispute Notice or are beyond the jurisdiction of the Civil Resolution Tribunal (CRT). ICBC also says Ms. Johnson is not eligible for income replacement benefits for her freelance contract work. In summary, ICBC says it has met its obligations under the IVA and asks me to dismiss Ms. Johnson's claims.
4. Ms. Johnson is self-represented. An employee represents ICBC.

JURISDICTION AND PROCEDURE

5. The CRT has jurisdiction over accident claims brought under *Civil Resolution Tribunal Act* (CRTA) section 133. CRTA section 133(1)(a) gives the CRT jurisdiction over the determination of entitlement to accident benefits. These are the CRT's formal written reasons.
6. 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.
7. CRTA section 39 says that 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.

8. 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.
9. I was initially unable to open 2 pieces of Ms. Johnson's evidence. At CRT staff's request, Ms. Johnson resubmitted the evidence. ICBC had an opportunity to review the resubmitted evidence but provided no submissions. So, I have considered this evidence in my decision.

Preliminary issue: claims not in dispute notice

10. In her Dispute Notice, Ms. Johnson only claimed massage therapy treatments and income replacement benefits. The purpose of the Dispute Notice is to define the issues and provide fair notice to ICBC of the claims against it.
11. However, in her submissions, Ms. Johnson raised claims for a number of other healthcare and rehabilitation benefits, specifically, trigger point injections, botox treatment, chiropractic treatment, and musculoskeletal therapeutics. She also claimed activities of daily living benefits, caregiver benefits, and permanent impairment compensation. Then, in her final reply submissions, Ms. Johnson claims for future vision assessments, future lens replacements, prescription sunglasses, kinesiology sessions, safe and sound therapy, and for an invoice from her family physician for completing short-term disability paperwork.
12. CRT rule 1.19 says the CRT will not issue an amended Dispute Notice after the dispute has entered into the tribunal decision process except in extraordinary circumstances. Here, I find there are no extraordinary circumstances that warrant amending the Dispute Notice. I understand that Ms. Johnson says she raised these claims in this proceeding in the interest of procedural efficiency and to preserve tribunal resources. However, this does not negate the lack of fair notice to ICBC of the claims against it.

13. Ms. Johnson's Dispute Notice was very specific in claiming only massage therapy and income replacement benefits. So, I do not address Ms. Johnson's claims for activities of daily living benefits, caregiver benefits, permanent impairment compensation, future vision assessments, future lens replacements, prescription sunglasses, safe and sound therapy, and for an invoice from her family physician for completing short-term disability paperwork in this decision.
14. However, as ICBC provided submissions about trigger point injections, botox injections, chiropractic, physiotherapy, and kinesiology treatments, I determined that there is no prejudice against ICBC in addressing these claims. So, I consider Ms. Johnson's entitlement to these benefits below.

ISSUES

15. The issues in this dispute are:
 - a. Whether Ms. Johnson is entitled to further health care and rehabilitation benefits,
 - b. Whether Ms. Johnson is entitled to income replacement benefits.

BACKGROUND, EVIDENCE AND ANALYSIS

16. In a civil claim such as this, Ms. Johnson, as the applicant, must prove her claims on a balance of probabilities, meaning "more likely than not." While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
17. As I noted, Ms. Johnson was undisputedly injured as a result of the December 3, 2023, accident. The parties agree that Ms. Johnson sustained whiplash associated disorder, soft tissue injury to her lower back, secondary headache attributed to trauma or injury to the head and/or neck, a concussion/mild traumatic brain injury and persistent post-concussive symptoms.

Health care and rehabilitation benefits

18. Ms. Johnson asks me to order both continuing and new forms of treatment. First, she wants ICBC to continue to fund ongoing massage treatments, kinesiology and chiropractic treatments, and physiotherapy. Second, she wants ICBC to approve funding for other treatments, specifically, trigger point and botox injections.
19. Under IVA section 123, an injured person is entitled to payment or reimbursement of reasonable expenses for necessary health care expenses incurred due to their accident injuries. *Enhanced Accident Benefits Regulation* (EABR) section 19 says an insured is entitled to payment or reimbursement under section 123(1) only if the health care is provided to facilitate the insured's recovery from bodily injury or to address a decline in the insured's physical or mental function because of their bodily injury.
20. Practically, this means an applicant can ask the CRT to order either past or future expenses. In other words, an applicant can ask the CRT to have ICBC pay them back for an expense they paid from their pocket, or they can ask for an order that ICBC pay for a treatment they have not yet attended, but that their health care provider recommends.

Further Treatment

21. I will first address Ms. Johnson's claim for further treatment sessions. ICBC says since the accident, it has funded 36 registered massage therapy sessions, 11 acupuncture treatments, 12 kinesiology treatments, 19 occupational therapy sessions, and 21 physiotherapy treatments, as well as equipment and travel expenses. To date, ICBC says it has paid \$21,007.88 in health care and rehabilitation benefits for Ms. Johnson.
22. Dr. Caley Flynn completed a July 19, 2024, Comprehensive Medical Assessment (CMA) report about Ms. Johnson's injuries. Dr. Flynn's report recommended several treatments, including massage therapy to treat comorbid whiplash injuries, which Dr. Flynn noted will also play an integral role in concussion recovery.

23. ICBC says that it approved 20 additional massage treatments upon the recommendations made in the CMA. However, ICBC says that it only approved 2 more of the 10 massage therapy sessions requested in February 2025 because the CMA recommendations were almost a year old. ICBC said that Ms. Johnson needed to follow up with her family doctor to provide ICBC with a further recommendation. ICBC says that to date it has not received this recommendation and notes the massage therapist's treatment plan says that she has "improved minimally." ICBC says that the treatment history and evidence indicates that additional massage therapy will not result in improvement and so does not meet the section 19 requirement that the treatment facilitate recovery or address a decline in function.
24. In the CMA, Dr. Flynn specially recommended massage therapy once every 2 weeks for 12 weeks. After 12 weeks, Dr. Flynn said Ms. Johnson may have ongoing benefit to treatment at a reduced frequency, likely 1 to 2 times per month. Ms. Johnson used 20 massage therapy appointments over the course of 7 months. Dr. Flynn only wrote that further massage may be required at this point and there is no other evidence to show that the massage therapy is necessary for Ms. Johnson to facilitate recovery or to address a decline in function. I note that the February 2025 treatment plan says that massage treatments provide Ms. Johnson for a few days of relief. However, there is no explanation about whether or how this relief improves Ms. Johnson's functioning. So, I find the medical evidence does not establish that Ms. Johnson requires massage therapy for recovery or to address a decline in function.
25. Ms. Johnson says she relies on *Tiwari v. ICBC*, 2023 BCCRT 992. In that decision, the CRT found an applicant was entitled to further kinesiology and physiotherapy treatments because those health professionals stated that the applicant would benefit from further treatment. I note that in *Tiwari*, the applicant provided a recent letter from her family physician that also recommended the treatment. Here, ICBC asked Ms. Johnson to provide such a letter, but she has not done so. Without that evidence, I do not have any current explanation about the expected benefits of

further massage therapy or how such therapy would meet the test set out in the EABR. So, I dismiss Ms. Johnson's claim for massage therapy.

26. Ms. Johnson also asks that I order ICBC to fund kinesiology sessions. ICBC says it has not received a request for these treatments. Ms. Johnson says that ICBC declined the treatments, so she sought payment for her treatments from other insurance. From this, I infer she asks me to order ICBC to cover future sessions. The evidence shows that ICBC covered kinesiology treatments as recently as April 2025, and there is no medical evidence indicating that Ms. Johnson requires any further treatment. So, I dismiss this claim.
27. Ms. Johnson also claims for chiropractic treatment, however, there is no medical evidence that these treatments are recommended. So, dismiss this claim.
28. In the CMA report, Dr. Flynn recommended physiotherapy both to assist with both whiplash associated disorder and persistent post-concussion symptoms. ICBC's records show that Ms. Johnson most recently accessed physiotherapy in December 2024. There is no evidence that ICBC refused to cover recommended treatment going forward. There is also no medical evidence establishing that Ms. Johnson still requires physiotherapy to support her recovery or to address a decline in function. So, I dismiss Ms. Johnson's claim for physiotherapy.

Other treatments

29. I turn to consider Ms. Johnson's claims for trigger point and botox injections. ICBC also says that it did not deny any of those treatments, but Ms. Johnson disagrees and says ICBC has denied them. There is no record of ICBC denials in evidence.
30. In the CMA report, Dr. Flynn recommended botox injections along with six other treatments as options that might be implemented either concurrently or stepwise, at the discretion of a treating clinician. Ms. Johnson's family physician, Dr. Christina Coburn, indicated in her clinical notes of her call with ICBC on March 27, 2025, that Ms. Johnson should wait for a neurologist assessment before undertaking botox injections. Ms. Johnson provided a May 26, 2025, assessment from Dr. Brent

MacNicol, an anesthesiologist, which says that the plan was for Ms. Johnson to move forward with botox after she has tried and failed or been intolerant to at least 2 prophylactic medications. Dr. MacNicol goes on to say that he is prescribing topiramate to try for 3 months.

31. I find all the medical evidence does not support that botox is reasonable and necessary for Ms. Johnson. Rather, the evidence suggests that it may be appropriate in the future, after certain medications have failed or after a neurologist assessment. So, the medical evidence does not support that Ms. Johnson is entitled to botox injections at this time and I dismiss this claim. I note this decision does not prevent Ms. Johnson from making a new request to ICBC for botox injections should their treating physicians recommend it.
32. The CMA report does not mention trigger point injections among the list of recommended treatments. Dr. Coburn included in their notes that Ms. Johnson's next steps included continuing with trigger point injections, however, there is no indication in the medical evidence that the injections are necessary or what symptoms they are meant to alleviate. So, I find the medical evidence does not establish that trigger point injections are reasonable and necessary to address Ms. Johnson's accident related injuries. I dismiss this claim.

Income Replacement Benefits

33. Ms. Johnson says that while she was able to continue working her full-time legal assistant position after the accident, she was not able to maintain her freelance contract work as a social media manager. Ms. Johnson says that in February 2024, she was "let go" from this work because of her accident injuries. She also says that she used 3.5 weeks of vacation time to recover from her injuries.
34. The IVA and *Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation* (IRB) set out an insured's entitlement to income replacement benefits. IVA Division 6 provides that full-time earners, temporary or part-time earners, and non-earners are entitled

to income replacement benefits if they are unable to continue or hold employment because of their accident injuries.

Social Media Management Contract

35. ICBC denied Ms. Johnson's claim for income replacement benefits on August 2, 2024. In its letter, ICBC said that Ms. Johnson's family physician, Dr. Coburn, did not say that Ms. Johnson was unable continue with the social media work due to disability and the marketing company Ms. Johnson contracted with reported that it terminated the contract due to performance problems and sick days.
36. I agree with Ms. Johnson that performance problems and sick days may be evidence that she could not do this work because of her accident injuries. However, Ms. Johnson provided a letter from the marketing company that clearly states these problems were an issue before the accident. The undated letter from the company's founder says that Ms. Johnson was underperforming for months before the accident, that she was pulled from a large account due to a lack of understanding of marketing and client complaints, and that the accident did not impact Ms. Johnson's work performance. The letter states that performance problems "were growing issues before the accident happened."
37. Ms. Johnson says that the work performance issues identified in the letter occurred after the accident. In support, she provides emails and text messages between herself, the marketing company, and the client. The emails show that she was praised for her content creation both before and after the accident. The client also consistently provided extensive feedback on the content both before and after the accident. For example, in an October 25, 2023, email the client requested colour changes, changes to story features, formatting changes and a change of post content. They requested similar changes on both January 4, 2024, and February 22, 2024. Reviewing the correspondence, I find no indication in the emails that Ms. Johnson's work performance changed after the accident.

38. Ms. Johnson also provided text messages between herself and the marketing company's founder that she says show the challenges she had in keeping up with job demands. While the text messages show many requests for Ms. Johnson to complete tasks differently or that the requests conflicted with her appointments, she did not provide any text messages from before the accident. So, it is not possible to assess what impact the accident had on Ms. Johnson's challenges in completing the work.
39. From my review of all the evidence, I find Ms. Johnson has not proven that she lost her social media management contract work because of her accident injuries.

Vacation time

40. Ms. Johnson says that before the accident, she had 3.5 weeks of planned vacation time in December 2023. She says that she lost 3.5 weeks of paid holiday time because she used this time to recover from the accident.
41. ICBC says that lost vacation time is not compensable under the IVA. ICBC also says that as Ms. Johnson made a choice to use vacation time, there is no provision that allows her to change this choice after the fact and use income replacement benefits for that time instead. ICBC also says that this is a tort claim which is statute barred and that as Ms. Johnson experienced no loss of income, she has had no loss.
42. As I noted above, the IRBR provides income replacement benefits if an insured is unable to continue their employment due to their accident injuries. I find there is insufficient evidence to establish that Ms. Johnson was unable to work due to her injuries during her planned vacation time.
43. Ms. Johnson provided a brief note from Dr. Coburn, dated December 3, 2023, which stated that Ms. Johnson "requires 1 week off work due to medical reasons." I find this falls short of proving Ms. Johnson's entitlement to income replacement benefits in December 2023. First, it undoubtedly does not cover a 3.5 week period. Second, it is not clear that Ms. Johnson was on vacation leave during the week covered by

this note, as Ms. Johnson did not provide any records to verify the days that she was on vacation. Though the note is dated the day of the accident, it does not specify that Ms. Johnson could not work because of her accident injuries. Finally, IRBR section 35 says that income replacement benefits are not payable for the first 7 days after an accident. So, I find Ms. Johnson has not met her burden of proving her entitlement to income replacement benefits in December 2023.

FEES, INTEREST AND EXPENSES

44. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. Here, Ms. Johnson was unsuccessful in her claims, so I dismiss her claim for \$125 in paid tribunal fees.
45. ICBC claims \$25 for reimbursement of CRT fees. I order Ms. Johnson to pay this amount.

ORDERS

46. Within 30 days of the date of this decision, I order Ms. Johnson to pay ICBC a total of \$25 in CRT fees.
47. ICBC is also entitled to post-judgment interest under the *Court Order Interest Act*.
48. This is a validated decision and order. Under section 57 and 58 of the CRTA, 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.

Maria Montgomery, Tribunal Member