



# Civil Resolution Tribunal

Date Issued: December 4, 2023

File: VI-2023-007092

Type: Accident Claims

Category: Minor Injury Determination  
and Liability & Damages

Civil Resolution Tribunal

Indexed as: *Hans v. He*, 2023 BCCRT 1056

B E T W E E N :

PARENEET HANS

**APPLICANT**

A N D :

CHAO HE

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

Sherelle Goodwin, Vice Chair

## INTRODUCTION

1. This is a final decision dismissing this dispute because it is both out of time and moot (meaning “of no legal consequence”).

2. This decision is about a motor vehicle accident that took place on February 20, 2021 between the applicant, Pareneet Hans, and the respondent, Chao He. The parties agree that the respondent is 100% responsible for the accident.
3. The Insurance Corporation of British Columbia (ICBC) insures both parties, although it is not a party in this dispute. However, an ICBC employee represents the respondent.
4. The applicant seeks a determination that her injuries are not “minor injuries” under the *Insurance (Vehicle) Act* (IVA). She claims \$44,000 for pain and suffering, \$4,000 in income loss, and \$2,000 for out-of-pocket expenses, which totals \$50,000 as personal injury damages.
5. The respondent says the applicant’s injuries are minor and so she is only entitled to a maximum of \$5,627 for pain and suffering. The respondent denies the applicant sustained any income loss or out of pocket expenses that should be compensated. Finally, the respondent says the applicant’s claims are out of time under the *Limitation Act*.
6. The applicant is self-represented.

## **JURISDICTION AND PROCEDURE**

7. 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)(b) of the CRTA gives the CRT exclusive jurisdiction over the determination of whether an injury is a “minor injury” under the IVA. Section 133(1)(c) of the CRTA and section 7 of the *Accident Claims Regulation* (ACR) give the CRT jurisdiction over the determination of liability and damages claims, up to \$50,000.
8. 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.

9. 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.
10. 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.

## **ISSUES**

11. The sole issues before me are whether the CRT should dismiss the applicant's claims because they are:
  - a. Out of time under the *Limitation Act*, or
  - b. Moot.
12. In other words, this is not a final decision on the underlying merits of this dispute.

## **EVIDENCE AND ANALYSIS**

13. In making this decision I have reviewed the Dispute Notice, the Dispute Response, and the parties' submissions and evidence on the issues addressed in this decision.

### ***Limitation Act***

14. Section 13 of the CRTA confirms that the *Limitation Act* applies to CRT claims. Section 6 of the *Limitation Act* says that the basic limitation period to file a claim is 2 years after the claim is "discovered". At the end of the 2-year limitation period, the right to bring a claim disappears.

15. Section 1 of the *Limitation Act* defines “claim” to mean a claim to remedy an injury, loss or damage that occurred as a result of an act or omission.
16. I find the applicant’s claim for personal injury damages is clearly a “claim” under the *Limitation Act*, as it is meant to remedy the applicant’s alleged injuries, income loss, and out of pocket expenses. So, I find the 2-year limitation period applies to the applicant’s damages claim.
17. Section 8 of the *Limitation Act* says a claim is “discovered” on the first day the person knew, or reasonably ought to have known, that the loss or damage occurred, that it was caused or contributed to by an act or omission of the person against whom the claim may be made, and that a court or tribunal proceeding would be an appropriate way to remedy the damage.
18. It is undisputed, and I find, that the applicant discovered her damages claim on the February 20, 2021 accident date. So, I find the 2-year limitation period expired by February 20, 2023, which is before the applicant filed her dispute resolution claim on June 6, 2023.
19. The applicant argues that her 2-year limitation period was extended by 1 year, because the provincial government suspended limitation periods due to COVID-19, between March 26, 2020, and March 25, 2021. Essentially, the applicant argues that the limitation period for her damages claim did not expire until February 20, 2024. As explained below, I disagree.
20. 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 of March 26, 2020.
21. 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. Although limitation periods to start CRT proceedings were not automatically suspended under the CRMA, the legislation granted the CRT discretion to waive, suspend, or extend a limitation period. However,

that discretion was only in place for up to 90 days after the COVID-19 state of emergency ended. As the state of emergency ended on June 30, 2021, the CRT's discretion to waive, suspend or extend a limitation period expired by September 28, 2021. I find the CRT could not suspend, waive, or extend the limitation period for the applicant's damages claim by the time she filed her CRT claim on June 6, 2023.

22. Even though I find the CRMA did not extend the limitation period for CRT claims, a party may still be prevented from relying on the limitation period as a defence to a claim based on a legal principle known as promissory estoppel. To establish promissory estoppel, the applicant must show that ICBC, on behalf of the respondent, made a promise or assurance by words or conduct that was intended to affect the parties' legal relationship, and that the applicant acted on it or in some way changed their position in reliance on the promise (see: *Maracle v. Travellers Indemnity Co. of Canada*, 1991 CanLII 58 (SCC)).
23. The applicant says that ICBC told her that "there have been extensions because of COVID" so that her limitation period did not expire on February 20, 2023. ICBC denies any such assurances and does not waive its reliance on the *Limitation Act*. In its provided communications with the applicant, there is no indication that ICBC waived its right to rely on the limitation period.
24. The applicant provided no supporting evidence of any ICBC communications informing her that ICBC would not rely on the 2-year limitation period, such as emails, telephone notes, or details about who from ICBC told her the limitation period was extended, or when. Rather, the applicant says that no one at ICBC told her what her extended date was. This supports my finding that ICBC did not tell the applicant it would not rely on the limitation period or that the limitation period was suspended or extended due to COVID-19.
25. The applicant provided a series of February 21, 2023 emails with an ICBC adjuster, offering to settle the applicant's damages claim. The applicant argues that these emails extend the limitation period, because the offer was made, and held open, after February 20, 2023.

26. Section 24 of the *Limitation Act* says that a limitation period is extended if a person admits liability for the claim in writing, with a signature, and before the limitation period expires. I find the emails provided by the applicant do not meet this test. The emails are dated after the limitation period expired. Further, in the initial offer, the ICBC adjuster specifically says the offer is not an admission of liability, or a waiver or extension of any applicable limitation period. Given this specific reference, I find the emailed offer is not an admission of liability or extension of the applicant's limitation period, as argued by the applicant.
27. I have also considered whether the applicant's personal injury damages claim would meet the extended limitation period that applies to court actions. This is because the CRT can refuse to resolve the applicant's claim under CRTA section 11(1)(a) if it is more appropriately resolved by another legally binding process, such as the court.
28. On December 21, 2020, the government pronounced Order in Council 655, which repealed the *COVID-19 (Limitation Periods in Court Proceedings) Regulation*, effective March 25, 2021. So, limitation periods for bringing court actions were suspended between March 26, 2020 and March 25, 2021. As the applicant's car accident occurred during that period of suspension, the 2-year limitation period for any court action started to run on March 26, 2021. This means the applicant would have had to file any court action for personal injury damages by March 26, 2023. As the applicant filed her CRT claim on June 6, 2023, I find her personal injury damages claim is out of time, whether she filed it at the CRT or the court. So, I find this dispute would not be more appropriately resolved by the court.
29. For all the above reasons, I find the applicant filed her CRT claim for personal injury damages after the limitation period to do so had expired, and I dismiss it.
30. I do not find the applicant's limitation period for her minor injury determination claim expired, as explained below.
31. I find the applicant's claim for a minor injury determination is a request for the CRT to make a decision, or a declaration. A declaration does not remedy an injury, loss, or

damage, or order a person to do anything. Rather, a declaration pronounces a legal state of affairs (see *Lower v. Investment Industry Regulatory Organization of Canada*, 2019 BCSC 2188, at paragraph 77). I find this is the case here.

32. I find the applicant's claim for a minor injury determination seeks a declaration, rather than seeking a monetary remedy or an order for someone to do or stop doing something. In other words, a determination that the applicant's injuries are, or are not, minor injuries, does not remedy the applicant's injury, loss or damage resulting from the car accident. So, I find the applicant's claim for a minor injury determination is not a "claim" under the LA and so the 2-year limitation period does not apply. However, that does not end the matter.

### **Mootness**

33. I asked the parties for their submissions on whether the applicant's minor injury determination claim would be moot, should I find the applicant's damages claim was filed out of time.
34. A claim is "moot" when there is no longer a live controversy between the parties. The issue is no longer live when it becomes theoretical or academic. In other words, if deciding the issue would have no practical application to the parties. While the courts, and tribunals like the CRT, will generally dismiss a moot claim, the CRT has discretion to decide the dispute if doing so would have a practical impact and potentially help avoid future disputes (see *Binnensley v. BCSPCA*, 2016 BCCA 259).
35. ICBC argues that any determination as to whether the applicant's injuries are minor injuries is purely academic in nature if the applicant's damages claim is dismissed as out of time. I agree. This is because, under the *Minor Injury Regulation*, non-pecuniary (pain and suffering) damages for minor injuries are capped at a maximum amount. If the applicant no longer has a claim for damages, it does not matter whether the non-pecuniary damages are capped or not because the applicant will not recover any money for her injuries. In other words, it is a purely academic and theoretical question – it will have no practical effect.

36. I acknowledge the applicant's argument that the live issue has not disappeared, because she continues to seek medical treatment for their injury related symptoms. However, I find that does not mean there is a live legal issue remaining between the parties. As the applicant is no longer entitled to damages, I find no practical use in deciding whether her injuries are minor, under the IVA. I find it would be contrary to the CRT's mandate to resolve a dispute that has no further practical application. So, I dismiss the applicant's minor injury determination claim as moot.
37. Nothing in this decision prevents the applicant from seeking funding for further injury treatment from ICBC directly. ICBC administers accident benefits under Part 7 of the *Insurance (Vehicle) Regulation*. For clarity, section 103 of the Regulation sets out limitation periods for benefit entitlement claims which are different than the limitation periods for personal injury damages claims.
38. 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**

39. 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.
40. ICBC is entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.
41. I dismiss the applicant's claims.



42. 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 in which it is filed.

---

Sherelle Goodwin, Vice Chair