



Civil Resolution Tribunal

Date Issued: March 7, 2024

File: VI-2023-006145

Type: Accident Claims

Category: Minor Injury Determination
and Liability & Damages

Civil Resolution Tribunal

Indexed as: *Khabra v. Sangha*, 2024 BCCRT 236

BETWEEN:

BALJIT KHABRA

APPLICANT

AND:

TIRTH SINGH SANGHA

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 November 3, 2019 motor vehicle accident between the applicant, Baljit Khabra, and the respondent, Tirth Singh Sangha. The parties agree the applicant is not responsible for the accident.
3. The Insurance Corporation of British Columbia (ICBC) insures both parties, although it is not a party in this dispute. An ICBC employee represents the respondent.
4. The applicant seeks a determination that their injuries are not “minor injuries” under the *Insurance (Vehicle) Act* (IVA). They also claim a total of \$1,020,000 in personal injury damages for pain and suffering, past and future income loss, future care costs and out-of-pocket expenses. The applicant is represented by Wayne Ryan, a lawyer.
5. The respondent disputes the applicant’s claimed damages and says their injuries are minor injuries under the IVA. The respondent also says the applicant’s claims are out of time under the *Limitation Act*.

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)(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.
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.
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.

ISSUES

10. 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.
11. This is not a final decision on the underlying merits of this dispute.

EVIDENCE AND ANALYSIS

12. In making this decision I have reviewed the Dispute Notice, the Dispute Response, and the parties' submissions on these preliminary issues.

Limitation Act

13. 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.
14. 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.
15. 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.

16. 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.
17. The respondent says the applicant discovered their damages claim on the November 3, 2019 accident date. This means the 2-year limitation period expired by November 3, 2021, which is before the applicant filed their application for dispute resolution on June 9, 2023.
18. Despite being given the opportunity to do so, the applicant provided no submissions.
19. I agree with the respondent and find the applicant filed their claim for personal injury damages after the limitation period to do so had expired. So, I dismiss that claim.
20. I do not find the applicant's limitation period for her minor injury determination claim expired, as explained below.
21. 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.
22. 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 *Limitation Act* and so the 2-year limitation period does not apply. However, that does not end the matter.

Mootness

23. 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. Neither the applicant or her counsel provided submissions despite a lengthy extension of time to do so, and repeated reminders from CRT staff.
24. 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 *Binnersley v. BCSPCA*, 2016 BCCA 259).
25. 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 their injuries. In other words, it is a purely academic and theoretical question – it will have no practical effect.
26. As the applicant is no longer entitled to damages, I find no practical use in deciding whether their 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.
27. 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 that regulation sets out

limitation periods for benefit entitlement claims which are different than the limitation periods for personal injury damages claims.

28. 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. As the applicant was not successful, they are not entitled to reimbursement of any paid CRT fees. As the respondent was successful, I order the applicant to reimburse their \$25 in CRT fees. They claim no dispute-related expenses.

ORDERS

29. I dismiss the applicant's claims.
30. Within 30 days of the date of this decision, I order the applicant to reimburse the respondent \$25 for CRT fees.
31. The respondent is entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.
32. This is a validated decision and order. Under sections 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