Civil Resolution Tribunal

Date Issued: January 7, 2026

File: VI-2023-005042

Type: Accident Claims

Category: Minor Injury Determination

Civil Resolution Tribunal

Indexed as: *Dyck v. Singh*, 2026 BCCRT 13

BETWEEN:

RHEA DYCK

APPLICANT

AND:

GURWINDERPAL SINGH and SUPER STAR TRUCKING LTD.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member: Mark Henderson

INTRODUCTION

1. This is a minor injury determination. It arises from a November 6, 2019, accident in Surrey, British Columbia. Issues about liability and damages are not before me.

2. The applicant, Rhea Dyck, says she suffered a cervical disc protrusion, left rotator cuff impingement, psychological conditions, including major depressive disorder (MDD)and post traumatic stress disorder (PTSD), and chronic regional myofascial pain syndrome. She says her injuries are not minor under the *Insurance Vehicle Act* (IVA) and the *Minor Injury Regulation* (MIR).

3. The respondent, Gurwinderpal Singh was driving a vehicle owned by the other respondent, Super Star Trucking Ltd., when the accident occurred. The respondents say the applicant's injuries are minor and ask me to dismiss her claims.

4. The applicant is represented by a lawyer, David Bradshaw. The respondents are represented by a lawyer, Clara Linegar.

JURISDICTION AND PROCEDURE

5. The Civil Resolution Tribunal (CRT) has jurisdiction over accident claims brought under *Civil Resolution Tribunal Act* (CRTA) section 133. CRTA section 133(1)(b) gives the CRT jurisdiction over the determination of whether an injury is a "minor injury" under the IVA. These are the CRT's formal written reasons of the Civil Resolution Tribunal.

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.

7. CRTA section 39 says that the CRT has discretion to decide the format of the hearing. The respondent questions the applicant's credibility. The respondent argues that the applicant does not accurately describe her medical history, or employment history in medical visits or in her submissions. While credibility issues can sometimes be resolved with an oral hearing, the advantages and disadvantages of an oral hearing must be balanced against the CRT's mandate to resolve disputes in an accessible, speedy, economical, informal, and flexible

manner. See *Downing v. Strata Plan VR2356*, 2023 BCCA 100, at paragraph 47. Here, I find that an oral hearing is not warranted. The parties provided comprehensive records and reports from the applicant's treating practitioners. I find I can make the necessary factual findings on this evidence. So, I have decided this dispute based on the written submissions and documentary evidence before me.

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. The Dispute Notice did not name Super Star. The respondents' insurer, Insurance Corporation of British Columbia, filed a Dispute Response on Super Star's behalf. Since Super Star owns the vehicle that the respondent was driving when the accident occurred, I have exercised my discretion under CRTA section 61 to amend the style of cause to add Super Star.

ISSUE

10. The issue in this dispute is whether the applicant's injuries are minor injuries under the IVA and MIR.

BACKGROUND, EVIDENCE AND ANALYSIS

11. Under MIR section 4, a party alleging that an injury is not minor has the burden of proving it. This means the applicant, as the injured party, must prove her injuries are not minor on a balance of probabilities, which means "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.

12. On November 6, 2019, the applicant was injured in a motor vehicle accident when her vehicle was pushed onto a highway median by the respondents' truck pulling onto the highway.

13. The applicant says she had a seasonal position and was scheduled to restart her work as a machine operator at Pacific Injection Molding (PIM) soon after the accident. The applicant says she was unable to resume this work because of her injuries. The respondents dispute her claim and say the applicant's employment records show that she had been unemployed since February 2019, and that she had no specific employment plans when the accident occurred.

14. The applicant was involved in 2 subsequent single vehicle accidents. The parties dispute when these other accidents occurred. The applicant says the other accidents happened in 2021 and 2022. The respondents say the other accidents happened in August 2020 and on May 7, 2021.

15. In her Dispute Notice, the applicant says in the accident this dispute is about, she suffered injuries to her head, jaw, neck, shoulders, back, spine, arms and legs as well as anxiety, panic attacks and other psychological injuries.

16. In her submissions, the applicant focuses on the injuries Dr. Alexander Leung, psychiatrist, diagnosed in his January 29, 2024, independent medical evaluation (IME).

17. She also addresses some of the injuries diagnosed by physiatrist Dr. Maryana Apel in her April 29, 2024, IME. Drawing from both reports, I find she alleges the following are not minor injuries:

    a. a C5-6 cervical disc protrusion,

    b. left rotator cuff impingement,

    c. MDD,

    d. PTSD, and

    e. chronic regional myofascial pain syndrome.

18. Since the applicant is represented by counsel, I find she intentionally focused her submissions on the injuries that Dr. Leung and Dr. Apel diagnosed in their reports. So, I have not considered any other injuries. I accept Dr. Leung's and Dr. Apel's reports as expert evidence based on their experience and qualifications. I also note that the respondents do not challenge Dr. Leung's or Dr. Apel's qualifications. The respondents do say I should give Dr. Leung's report minimal weight, which I discuss in more detail below.

Minor injury legislation

19. IVA section 101(1) and MIR section 2 together establish a list of physical and mental injuries that are presumed minor. The list includes the following injuries relevant to this dispute: pain syndromes, psychological or psychiatric conditions, and whiplash associated disorder injuries (WAD injuries).

20. IVA section 101(4) says a minor injury includes a symptom or condition associated with an injury.

21. If a presumptively minor injury results in a serious impairment or a permanent serious disfigurement, it is not a minor injury. The applicant does not allege any disfigurement.

22. MIR section 5(a) says each injury must be diagnosed separately to determine whether it is minor.

23. In *Grainger v. Hotte*, 2025 BCCRT 138, a tribunal member found the CRT should apply the modern approach to statutory interpretation when considering the minor injury legislation. This means the words of a statute are to be read in their entire context and in their grammatical and ordinary sense, harmoniously with the scheme of the act, the object of the act, and the intention of Parliament. See *Rizzo & Rizzo Shoes Ltd. (Re),* [1998] 1 S.C.R. 27. Even applying the modern approach, the tribunal member in *Grainger* found the CRT is only required to find injuries are minor when they are clearly and specifically captured by the IVA and MIR. While not

binding on me, I agree with the reasoning in *Grainger*, and I apply the same approach here.

Injuries

Cervical disc protrusion

24. On January 7, 2020, the applicant had a head and cervical spine CT scan. The CT scan identified a small central C5-6 disc protrusion resulting in borderline central canal stenosis.

25. The applicant says that since disc protrusions are not included as minor injuries in IVA section 101(1) and MIR section 2, the disc protrusion is not minor. The applicant also relies on *Forward v Van Hove*, 2024 BCCRT 853. In that decision, the tribunal member cited previous CRT decisions to say that since the minor injury scheme limits a person's rights, it must be read strictly. The tribunal member found that since disc protrusions are not listed as minor injuries under the legislation and there was no medical evidence to prove that the disc protrusion was a minor injury, the tribunal member found that a disc protrusion was not a minor injury.

26. The respondents say I should prefer Dr. Apel's opinion about the applicant's disc protrusion. The respondents say that Dr. Apel suggested a disc protrusion is frequently secondary to a muscle spasm. So, the respondents say the disc protrusion is a symptom of the applicant's myofascial injury. The respondents did not provide any specific medical evidence to support their position. While Dr. Apel's report says that a disc protrusion is frequently secondary to a muscle spasm, Dr. Apel did not provide any direct opinion that the applicant's disc protrusion resulted from a muscle spasm.

27. Applying the reasoning in *Grainger*, I find that disc protrusion is not specifically listed as a minor injury. Without clear medical evidence that the applicant's disc protrusion is secondary to a muscle spasm, and a corresponding argument about

why I should consider a muscle spasm and its effects to be a minor injury, I find that the applicant's cervical disc protrusion is not a minor injury.

Rotator cuff impingement

28. On November 7, 2019, general practitioner (GP), Dr. James Dueckman examined the applicant and noted positive impingement findings in the left shoulder. Dr. Dueckman diagnosed the applicant with a left shoulder strain. Dr. Apel also identified impingement symptoms in the applicant's left rotator cuff.

29. The applicant says the list of minor injuries in the IVA section 101(1) and MIR section 2 do not include impingements. So, the applicant says a rotator cuff impingement is not a minor injury.

30. The respondents say the impingement should not be treated as a standalone diagnosis but rather a symptom of the diagnosed myofascial pain syndrome and, as such, I should presume it to be minor. This is because pain syndromes are presumptively minor injuries under IVA section 101(1)(b)(ii).

31. I find that the respondents require expert medical evidence to prove the rotator cuff impingement is secondary to myofascial pain syndrome. They are asking me to draw a medical conclusion, but did not provide any evidence to support their argument.

32. In the absence of expert medical evidence that identifies the impingement as secondary to the applicant's myofascial pain syndrome, I find that the rotator cuff impingement is not a minor injury.

MDD and PTSD

33. On January 8, 2024, the applicant reported several mental health symptoms to Dr. Leung that she experienced after the 2019 accident. These symptoms included depression, low mood and motivation, poor sleep quality, increased general anxiety, decreased daytime energy, poor concentration, and feelings of worthlessness from

reduced capability. Dr. Leung says the applicants' mental health symptoms following the accident likely met the DSM-5 diagnostic criteria for MDD and PTSD.

34. The respondents say I should give Dr. Leung's opinion minimal weight because it relies on the applicant's self-reported symptoms. The respondents say the applicant was not functioning well prior to the accident. The respondents refer to the applicant's social assistance file, which notes that the applicant experienced periods of homelessness, and reduced employment due to psychological health reasons. The respondents referred to inconsistencies in the applicant's medical records as evidence of her lack of credibility. While I acknowledge the respondents' argument, I note that Dr. Leung's report discussed the applicant's pre-accident mental health history, and determined there was no history of PTSD or MDD.

35. IVA section 101(1) and MIR section 1(3) say that psychiatric and psychological conditions that do not result in an incapacity are considered minor injuries. So, under IVA section 101(1), if either of these conditions resulted in an incapacity, then it is not a psychological or psychiatric condition within the definition of IVA section 101(1), and so not a minor injury. If the condition did not result in an incapacity, then it is a minor injury unless it results in a serious impairment under IVA section 101(1)(a).

36. I address the applicant's arguments about incapacity and serious impairment below.

Chronic regional myofascial pain syndrome

37. Dr. Apel diagnosed the applicant with chronic regional myofascial pain syndrome, worse at the left upper quadrant, with the possibility of C3-4 cervical facet dysfunction. Dr. Apel also said that the applicant developed significant limitations in her ability to continue physically demanding labour activities.

38. The applicant acknowledges in submissions that the chronic myofascial pain syndrome is a pain syndrome within the meaning of MIR section 1. So, the applicant

must show that the chronic myofascial pain syndrome results in a serious impairment under IVA section 101(1)(a).

Serious impairment and incapacity

39. The definitions of serious impairment and incapacity in the IVA and MIR are similar, though not identical. Under MIR sections 1(1)(b) and 3(a), both incapacity and serious impairment require an assessment of the injured person's substantial inability to perform:

    a. The essential tasks of their regular employment, despite reasonable efforts to accommodate their impairment, and their reasonable efforts to use the accommodation,

    b. The essential tasks of their training or education in a program or course, despite reasonable efforts to accommodate their impairment and their reasonable efforts to use the accommodation, or

    c. Their activities of daily living (ADLs).

40. "Substantial inability" is not defined in the IVA or the MIR. Previous CRT decisions have cited *Sparrowhawk v. Zapoltinsky*, 2012 ABQB 34, where the court found a substantial inability to perform the essential tasks of regular employment or ADLs exists when an injury:

    a. Prevents an injured person from engaging in an essential employment task or ADL,

    b. Impedes an injured person from engaging in an essential employment task or ADL to a degree that is non-trivial for that person, or

    c. Does not impede an injured person from engaging in an essential employment task or ADL, but that activity is associated with pain or other discomforting effects such that engaging in the activity diminishes the injured person's enjoyment of life.

41. In *Brough v. Brinston*, 2025 BCCRT 305, a tribunal member found the cases cited in *Sparrowhawk* make it clear the pain must be serious enough to have a significant effect on a person's enjoyment of life. The court summarized this as "something more than trivial interference, and something less than a complete disability." See *Sparrowhawk* at paragraph 36. The tribunal member concluded a pain syndrome does not necessarily trigger the third branch of the *Sparrowhawk* test, because the pain during ADLs may be minor or insignificant.

42. I agree with the reasoning and analysis in *Brough*, and I apply the test from *Sparrowhawk* here.

Pre-accident employment history

43. The parties dispute the applicant's pre-accident work history. The applicant says that before the accident, her last extended employment was as a seasonal machine operator at PIM. In her submissions, the applicant says that this position was her regular employment for the purpose of this minor injury assessment. In her statement included in evidence, the applicant says she also attempted to work as a general labourer at a local inn and did so for one season in 2022. Since the applicant is represented by counsel, I find she intentionally focused her submissions on the employment at PIM and not on her employment as a general labourer at a local inn.

44. The applicant says that her work as a machine operator was physically demanding and included standing, reaching, lifting, climbing, stooping, and kneeling. The applicant said her work also required her to focus for hours at a time or else she risked putting colleagues in danger while operating machinery.

45. The respondent says the applicant had not worked at PIM for nearly a year when the accident occurred and the applicant's evidence did not show that there was any plan for her to return to work.

46. The applicant provided evidence of her Records of Employment (ROE) for 2017, 2018 and 2019 showing that she worked at PIM in from January 5, 2017, until August 10, 2017. The 2017 ROE shows the issuing reason as “shortage of work or end of contract season.” The applicant resumed employment at PIM from October 26, 2017, until May 11, 2018. The 2018 ROE shows the same issuing reason as “shortage of work/end of contract season.” However, the applicant also worked for PIM from January 16, 2019, until February 16, 2019. The 2019 ROE says PIM dismissed the applicant or terminated her within the probationary period. The applicant provided no evidence of a plan to return to working at PIM as she claims in her submissions.

47. The respondent says that based on the ROE evidence of the applicant’s termination, the applicant did not have regular employment at the time of the accident. I note that the applicant has not described any attempts that she made to return to work as a machine operator at PIM or anywhere else. The applicant has also not described any attempts to obtain accommodation for her injuries or described any efforts that she made to use any accommodations that any employers offered.

48. The applicant said in her statement that due to her MDD she does not believe she would be able to tolerate any kind of full-time employment. The applicant says she has difficulty getting out of bed due to lack of motivation. She also says she has poor sleep and would not be able to tolerate full-time employment or a consistent work schedule.

49. The applicant also says that because of her generalized anxiety and PTSD she would not be able to complete any kind of stressful or dangerous job duties. The applicant says she is unable to focus and is prone to panic attacks and breakdowns.

50. The applicant says her injuries would affect her work at PIM. But I find the applicant has not proved that she continued working at PIM after the accident. There is also no evidence from anyone at PIM showing that it planned to employ the applicant soon after the accident or that the applicant requested any accommodations. I find

the applicant has not proved that she attempted to complete her regular employment activities and that her MDD, PTSD or chronic regional myofascial pain caused a substantial inability to complete the essential tasks of her regular employment despite reasonable accommodations. I find the applicant has not proved that her MDD, PTSD or chronic regional myofascial pain caused a substantial inability to perform the essential tasks of her employment.

51. The applicant also provided no evidence that she was enrolled in any training or education. So, I have not considered whether the injuries impaired any training or education in which she was enrolled.

Have the applicant's MDD or PTSD caused an incapacity?

52. Since I have found the applicant has not proved the injuries impacted her employment or education, I turn to her ADLs.

53. An incapacity must have not resolved within 16 weeks, and be the primary cause of an injured person's substantial inability to perform their ADLs. Unlike a serious impairment, there is no requirement to prove that an incapacity has been caused by the accident, or that it is not expected to improve substantially.

54. At the time of the accident, under MIR section 1, ADLs meant the following activities:

    a. Preparing one's own meals,

    b. Managing personal finances,

    c. Shopping for personal needs,

    d. Using public or personal transportation,

    e. Performing housework to maintain a place of residence in acceptable sanitary condition,

    f. Performing personal hygiene and self-care, and

g. Managing personal medication.

55. Based on Dr. Leung's report, I find that the applicant's MDD and PTSD had not resolved within 16 weeks of the accident.

56. The respondents say the applicant has a pre-existing history of depression and refer to Dr. Apel's report, which notes that the applicant reported depression since she was 12 years old and a severe panic disorder starting at age 15. Since there is no requirement to prove that the incapacity has been caused by the accident, I find that the respondent's pre-existing mental health history does not assist the respondents in proving that the MDD and PTSD are minor injuries.

57. The applicant says that her psychological and psychiatric symptoms have caused difficulties with planning and executing food preparation. The applicant says there are many times that she has burned food because she forgot having turned on the stove or oven. The applicant also says that her psychological and psychiatric symptoms cause her to have no desire to prepare meals. The applicant relies on her partner to cook meals.

58. The applicant says she also struggles with finding motivation to go to the grocery store. The applicant says she avoids being out in public and driving because of her anxiety. The applicant says she has had panic attacks while travelling to the grocery store and at the grocery store.

59. The applicant says she has severe driving anxiety. Since she lives in a remote, rural community, the applicant avoids driving and therefore rarely leaves her home. The applicant says she is constantly worried about other drivers and the abundant wildlife in her remote location. She occasionally has to travel to the nearest large city, 3.5 hours away, but typically has to pull over between 6 to 10 times to calm down because she experiences panic attacks while driving. She can travel as a passenger, but says she must distract herself by looking at her phone.

60. Based on the applicant's evidence, I find that the applicants MDD and PTSD have impeded her participation in her ADLs, including preparing meals, shopping for

personal needs and using transportation, to a non-trivial degree. So, I find that her MDD and PTSD have caused an incapacity and therefore are not minor injuries.

Has the applicant's chronic regional myofascial pain syndrome caused a serious impairment?

61. A serious impairment is one that has not resolved within 12 months. The impairment must result in an injured person being substantially unable to perform certain tasks. An injured person must also prove the accident was the impairment's primary cause. The impairment must be ongoing since the accident, and not be expected to improve substantially.

62. Dr. Apel concluded that the applicant developed significant limitations in her vocational and avocational activities. But Dr. Apel also noted that the applicant reported being independent in all ADLs including self-care and driving. I note that Dr. Apel's report does not include any discussion of the applicant's panic attacks experienced while driving. Dr. Apel also deferred any conclusions about the applicant's psychological and cognitive difficulties to a psychiatrist. For that reason, I did not consider Dr. Apel's conclusions about the applicant's ADLs in the incapacity analysis.

63. Despite Dr. Apel's report, the applicant says that standing to prepare food, chopping food and getting items out of cupboards causes physical pain. The applicant says that she can only tolerate these tasks in short bursts and so avoids doing them. The applicant says she can only lift minimal groceries into a cart and cannot push the cart if it is heavy. The applicant also says she is unable to walk long distances around a grocery store or bend to retrieve items from lower shelves. The applicant relies on her partner to carry all the grocery bags.

64. I am unable to reconcile the applicant's statement to Dr. Apel with her statement in evidence. I find that I prefer the statement that the applicant made to Dr. Apel, as Dr. Apel's examination relied on the applicant honestly describing her symptoms. Based on the information provided to Dr. Apel that the applicant was independent in

all ADL's, I find that her chronic regional myofascial syndrome has not caused a serious impairment and is therefore a minor injury. As stated above, since Dr. Apel did not provide any opinion regarding the applicant's mental health diagnosis, I am satisfied that my conclusion about the applicant's independence in ADLs related to the chronic regional myofascial diagnosis does not contradict my finding above that the applicant was not independent in all ADLs for her incapacity arising from her mental health diagnosis.

SUMMARY

65. For the reasons set out above, I find the applicant's C5-6 disc protrusion, left rotator cuff impingement, MDD, and PTSD are not minor injuries as defined in the IVA and MIR.

66. I find the applicant's chronic regional myofascial pain syndrome is a minor injury.

FEES AND EXPENSES

67. 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. As the applicant was successful, I find that she is entitled to reimbursement of $125 for CRT fees. I dismiss the respondents' claims for CRT fees.

68. Under section 5 of the Accident Claims Regulation, recovery for fees and expenses is limited to $5,000, including a maximum of $2,000 for expenses and charges for each expert. This $5,000 limit does not include recovery for fees and expenses, including reasonable travel expenses, associated with an independent medical examination.

69. The applicant claimed $2,000 for Dr. Apel's report and $2,000 for Dr. Leung's report. The applicant provided invoices for each report that show each report cost more than the CRT's $2,000 limit. Since I relied on the reports in reaching my

decision, I award the applicant a total of $4,000 for Dr. Apel and Dr. Leung's reports.

70. The applicant also claimed $465.55 for hotel expenses to attend Dr. Apel's examination and $178.52 for hotel expenses on the return trip. The applicant says the 20 hour round trip to attend the appointment made these costs necessary. I find the applicant is entitled to $644.07 for these additional dispute-related expenses.

ORDERS

71. I order that:

    a. The applicant's C5-6 disc protrusion, left rotator cuff impingement, MDD, and PTSD are not minor injuries as defined in the IVA and MIR,

    b. The applicant's chronic regional myofascial pain syndrome is a minor injury.

72. Within 30 days of the date of this decision, I order the respondents to pay the applicant a total of $4,769.07, broken down as follows:

    a. $125 in CRT fees; and

    b. $4,644.07 in dispute-related fees and expenses.

73. The applicant is also entitled to post-judgment interest under the *Court Order Interest Act*.

74. 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.

Mark Henderson, Tribunal Member