



Citation: Bridgmohan v. Economical Mutual Insurance Company, 2023 ONLAT 22-013915/AABS - R

RECONSIDERATION DECISION

Before: E. Louise Logan

Licence Appeal Tribunal File Number: 22-013915/AABS

Case Name: Glenn Bridgmohan v. Economical Mutual Insurance Company

Written Submissions by:

For the Applicant: Michelle Velvet, Counsel

For the Respondent: Angelo Sciacca, Counsel

OVERVIEW

- [1] On November 10, 2023, the applicant requested reconsideration of the Tribunal's preliminary issue decision dated October 20, 2023 ("decision").
- [2] In the decision, the Tribunal determined that the applicant was barred from proceeding with his application.
- [3] The grounds for a request for reconsideration are found in Rule 18.2 of the *Licence Appeal Tribunal Rules, 2023* ("Rules"). To grant a request for reconsideration, the Tribunal must be satisfied that one or more of the following criteria are met:
 - a) The Tribunal acted outside its jurisdiction or committed a material breach of procedural fairness;
 - b) The Tribunal made an error of law or fact such that the Tribunal would likely have reached a different result had the error not been made; or
 - c) There is evidence that was not before the Tribunal when rendering its decision, could not have been obtained previously by the party now seeking to introduce it, and would likely have affected the result.
- [4] The applicant is seeking reconsideration under Rule 18.2(a) and (b). The applicant is seeking an order that the applicant is not barred from proceeding with his claim for accident benefits arising from the accident on December 6, 2014.
- [5] The respondent argues the request for reconsideration should be dismissed.

RESULT

- [6] The applicant's request for reconsideration is dismissed.

ANALYSIS

- [7] The test for reconsideration under Rule 18.2 involves a high threshold. The reconsideration process is not an opportunity for a party to re-litigate its position where it disagrees with the Tribunal's decision, or with the weight assigned to the evidence. The requestor must show how or why the decision falls into one of the categories in Rule 18.2.

Lack of Notice

- [8] The applicant argues that the Tribunal acted outside its jurisdiction and committed a material breach of procedural fairness by deciding an issue that was not reflected in the Case Conference Report and Order dated August 10, 2023 (“CCRO”). He submits he was not notified or provided with notice of the following preliminary issue:

Is the applicant precluded from proceeding with his claim for accident benefits due to his failure to notify the insurer about his intention no later than the seventh day after the circumstances arose that give rise to the entitlement to the benefit, or as soon as practicable?

- [9] I find this is not the case. The Tribunal’s case management records and the evidence submitted with the respondent’s submissions show that, following the case conference, the Tribunal contacted the parties about the specific wording of the preliminary issues in dispute. On September 26, 2023, counsel for both parties sent emails to the Tribunal explicitly agreeing to the wording of the added issue to be decided at the preliminary issue hearing. The agreed upon wording was included in the decision.
- [10] Accordingly, I find no violation of procedural fairness with respect to notice of the issues addressed in the decision.

Error in Not Considering Section 32(5)

- [11] The applicant also argues the Tribunal erred when it found it was not necessary to consider whether the applicant was barred from proceeding with his claims because he failed to submit the OCF-1 within the time limit in section 32(5) of the *Schedule*.
- [12] I disagree. I see no error at paragraph 13 where the Tribunal reasoned that it did not need to determine whether the applicant was barred from proceeding with his claim under 32(5), as it had already determined the applicant was precluded under section 32(1). The Tribunal had made its determination, and it is not required to consider a question that will not affect the outcome of the preliminary issue in dispute.

Errors in Interpretation of section 32(1)

- [13] The applicant also argues the Tribunal erred on a question of law in its interpretation of section 32(1). He specifically points to paragraphs 11, 12 and 13 of the decision. He argues the Tribunal erred when it based its decision on the

understanding that the applicant should have notified the respondent of his intention to apply for medical benefits seven days after the accident, rather than seven days after the day that gave rise to the entitlement to medical benefits. The applicant argues that while the accident is what triggered his psychological issues, it did not give rise to his entitlement to medical benefits.

- [14] The respondent argues the Tribunal did not err, and correctly interpreted section 32(1). The respondent submits the applicant has provided no case law in support of his submissions. It also submits he made submissions on the interpretation of section 32(1) in his submissions to the preliminary issue hearing.
- [15] As noted above, the onus is on the requestor to establish grounds for reconsideration under Rule 18.2. While the applicant argues an error of law, he has not provided any authority for this argument. He simply states that the Tribunal should have interpreted the *Schedule* in a manner that favours his position, and erred when it did not do so. I find the applicant has not established an error and is attempting to reargue his case.
- [16] The applicant also argues that the Tribunal erred in interpreting section 32(1) by applying the consequences set out in sections 34 and 55 of the *Schedule*, instead of section 32(10).
- [17] This issue was addressed by the respondent in submissions for the preliminary issue hearing. The respondent relied on *Adams v. Aviva Insurance Company*, 2023 CanLII 4458 (ON LAT), where the Tribunal held the claimant did not have a reasonable excuse for failing to notify the insurer of an intention to claim benefits within 7 days. It determined it did not need to also consider whether the applicant had submitted an OCF-1 within 30 days of receipt of the application. The claimant's application was barred by section 55.
- [18] Although it does not refer to *Adams*, the Tribunal applied this approach in its decision. Accordingly, I find the Tribunal has already considered this argument, and the applicant has not established an error with respect to the Tribunal's interpretation of section 32(1). He is attempting to re-argue his case, which is not grounds for reconsideration.

Inadequate Reasons

- [19] The applicant also argues the Tribunal's reasons for its decision are inadequate, and do not address the points he has made with respect to section 32(1), the circumstances that gave rise to the psychological impairment, and whether the

respondent's failure to provide the OCF-1 meant the 30-day clock in section 32(5) started to run.

[20] I find the Tribunal's reasons are clear and cogent, and address the questions required to determine the preliminary issue in dispute. While the applicant does not agree with the Tribunal's reasons or with its decision, this is not grounds for reconsideration.

[21] For the reasons set out above, I find the applicant has not established grounds for reconsideration.

CONCLUSION & ORDER

[22] The applicant's request for reconsideration is dismissed.

E. Louise Logan
Vice-Chair
Tribunals Ontario – Licence Appeal Tribunal

Released: December 28, 2023