



Civil Resolution Tribunal

Date Issued: January 16, 2026

File: VI-2023-009157

Type: Accident Claims

Category: Minor Injury Determination

Civil Resolution Tribunal

Indexed as: *Unwin v. Flear*, 2026 BCCRT 74

BETWEEN:

ALEXANDRA REBECCA UNWIN

APPLICANT

AND:

KIMBERLY SUSAN FLEAR, WILD & LIVE SEAFOODS LTD.,
ERVEENDRAN ARCHINAN, REVEENDRAN ARCHINAN, SHUN TAO
CHEN, and WTH CAR RENTAL ULC

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. This is a minor injury determination arising from an April 16, 2019 motor vehicle accident in Vancouver, British Columbia.

2. The applicant, Alexandra Rebecca Unwin, says she suffered several serious and permanent injuries. She says her injuries are not minor injuries under the *Insurance (Vehicle) Act (IVA)* and the *Minor Injury Regulation (MIR)*. Ms. Unwin is represented by lawyer Jordan Mintz.
3. The respondents, Kimberly Susan Flear, Wild & Live Seafoods Ltd., Erveendran Archinan, Reveendran Archinan, Shun Tao Chen, and WTH Car Rental ULC, say Ms. Unwin's injuries are minor injuries. The respondents made joint submissions and are represented by lawyer Oliver Wilson.

JURISDICTION AND PROCEDURE

4. 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)*. CRTA section 133(1)(b) gives the CRT jurisdiction over the determination of whether an injury is a "minor injury" under the IVA.
5. 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.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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.
7. 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.

ISSUE

8. The issue in this dispute is whether Ms. Unwin's injuries are minor injuries under the IVA and MIR.

EVIDENCE AND ANALYSIS

9. Under MIR section 4, Ms. Unwin must prove that her injuries are not minor on a balance of probabilities, meaning 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.
10. Ms. Unwin's submissions were written by her lawyer and largely quote from the medical reports and the applicable legislation. Ms. Unwin did not provide direct evidence of her own, such as a statement or affidavit. The respondents provided a transcript of Ms. Unwin's June 14, 2022 examination for discovery from the related BC Supreme Court proceeding. Where I attribute a statement in this decision to Ms. Unwin, it comes from that transcript, unless otherwise noted.
11. On April 16, 2019, Ms. Unwin was stopped at a red light when she was involved in a 5-vehicle accident. Her vehicle was struck from behind and pushed into the vehicle in front of her. She was wearing a seatbelt, and the airbags did not deploy. In most discussions with doctors, as described in their reports, Ms. Unwin said that although she hit her head on the steering wheel, she did not lose consciousness or suffer from amnesia or memory loss.
12. On April 22, 2019, Ms. Unwin attended St. Paul's Hospital after vomiting. She was diagnosed with a concussion as well as shoulder and hip pain. These records are not before me but were reviewed by multiple experts in preparation of their reports, and I accept their summary of the records.
13. Before the accident, Ms. Unwin was working part-time as a server at two Vancouver restaurants. She also worked as a care aid in a client's home. She stopped working for a few weeks after her hospital visit, then gradually returned to work.

14. By November 19, 2019, general practitioner Dr. Ramesh Kamath reported that Ms. Unwin was not absent from work, and was working full duties and full-time hours. Dr. Kamath noted no recommended restrictions on her duties or hours, but that she had muscle soreness in the neck and back and was unable to do “all that she would like to do.”
15. By February 2020, physiotherapist Emily Banez reported that Ms. Unwin had no limitations on her activities of daily living and was working modified duties and hours, as well as studying full time.
16. In 2020, Ms. Unwin attempted to take a prerequisite course for massage therapy at Langara College, but dropped out, she says, due to symptoms like brain fog, memory loss, and eyestrain. In 2021, she completed an adventure guide certificate, and in June 2022, began work as a seasonal kayak instructor. She also started a serving job 2 days per week.
17. Ms. Unwin says the following injuries, and their symptoms, result in serious and ongoing impairments and are therefore non-minor injuries:
 - a. Chronic cervical and left shoulder soft-tissue injuries.
 - b. Concussion and post-concussion syndrome, with headaches, light and noise sensitivity, and tinnitus.
 - c. Cognitive, psychological and sleep disturbances.

Minor injury definition

18. The definition of a minor injury is found in IVA section 101 and MIR section 2. The relevant parts of IVA section 101 define a minor injury as a physical or mental injury, including a chronic injury, that does not result in a serious impairment, and is one of a list of prescribed injuries. I will return to the meaning of “serious impairment” below.

19. Relevant to this dispute, the list of prescribed injuries includes a sprain or strain, a pain syndrome, whiplash-associated disorder (WAD) injuries, a psychological or psychiatric condition that does not result in an incapacity, and a concussion that does not result in an incapacity. I will return to the meaning of “incapacity” below.
20. MIR section 5 says that if a person alleges more than one injury because of an accident, as Ms. Unwin does here, each injury must be “diagnosed” separately. Under IVA section 101(4), a minor injury includes a symptom or condition associated with that injury.
21. The parties agree that Ms. Unwin’s injuries are, on the surface, included in the IVA and MIR lists. This means they are minor injuries unless Ms. Unwin can prove that her concussion or psychological condition resulted in an incapacity, or that her neck and left shoulder soft-tissue injuries resulted in a serious impairment. I will next consider the evidence about each alleged injury.

Concussion

22. Dr. Paul Waraich is a psychiatrist. Dr. Waraich assessed Ms. Unwin on December 31, 2020. He noted that Ms. Unwin’s concussion and post-concussion symptoms had peaked in the summer of 2020 and she rated them 4 out of 10 since October. He said Ms. Unwin scored 48 out of 54 “on the Rivermead”, which amounted to “severe symptoms”, but did not explain the Rivermead. He also did not explain whether this rating reflected an inability to perform essential employment tasks or activities of daily living.
23. Dr. Donald A. Cameron is a neurologist. On November 9, 2022, he carried out an independent medical (neurological) assessment on Ms. Unwin. Dr. Cameron’s opinion was that Ms. Unwin probably suffered a “brief altered state of consciousness or loss of consciousness” at the time of the accident. She did not recall walking to work after she left the scene of the accident, which Dr. Cameron said is consistent with a period of amnesia. Dr. Cameron said she met the criteria to be diagnosed with a mild traumatic brain injury at the time of the accident.

24. Dr. Sarah Greer is a neuropsychologist. She assessed Ms. Unwin on October 18 and 19, 2022. She said Ms. Unwin reported that most of her accident-related symptoms had improved, with most of the healing occurring in the first two years, but she was still experiencing some persistent symptoms. One was daily headaches that she linked to vision therapy she was undertaking. Another was intermittent tinnitus, twice a week for less than a minute. I note Dr. Cameron indicated that Ms. Unwin experienced headaches about once per month, and I infer the headache frequency was substantially reduced when Ms. Unwin reduced the frequency of her vision therapy appointments.
25. Dr. Greer noted that Ms. Unwin's report of cognitive difficulties was somewhat inconsistent with the tests Dr. Greer applied. Those tests found globally intact cognitive functioning, with 2 mild inefficiencies that were not considered to hold great significance (speed of detecting visual stimuli and recognition of elements of a complex figure). Dr. Greer said that if Ms. Unwin did experience a traumatic brain injury, it was mild.
26. Dr. Raphael Chow completed an independent medical examination of Ms. Unwin on December 14, 2022. Dr. Chow specializes in physical medicine and rehabilitation. This means his report is generally more relevant to Ms. Unwin's neck and shoulder injury. However, he concluded based on a review of medical records that Ms. Unwin suffered a concussion in the accident, and had ongoing symptoms.
27. Based on these expert medical opinions, I find that Ms. Unwin likely suffered a concussion as a result of the accident. The respondents do not specifically dispute this. Rather, they say Ms. Unwin has not proved that the concussion, or its subsequent symptoms, resulted in an incapacity. For the following reasons, I agree.
28. MIR section 1(b) defines an incapacity as a mental or physical incapacity that has not resolved after 16 weeks and is the primary cause of the injured person's substantial inability to perform their employment or education tasks or their activities of daily living.

29. When the accident happened, Ms. Unwin was not in school. For the ability to perform education tasks to be relevant, the definition of incapacity says the claimant must be enrolled in or accepted for enrolment in a program or course at the time of the accident. So, although Ms. Unwin attended school after the accident with mixed success, this is not a relevant consideration.
30. I turn to employment. Ms. Unwin was let go from her serving job at Burgoo on May 27, 2019. A letter from Burgoo said she was not a good cultural fit. Ms. Unwin said Burgoo needed someone who could work more shifts.
31. Ms. Unwin continued to work at her other serving job, at Storm Crow, until January 2020. She did not provide evidence of what hours she worked. Ms. Unwin said she struggled with patio shifts, which involved repetitive lighting changes that exacerbated her symptoms. She also had pain her left elbow when carrying her server's tray, which she attributed to the accident. Ms. Unwin does not say she asked Storm Crow not to schedule her for patio shifts, or that she could not manage her server's tray by taking smaller loads. Ms. Unwin conceded there were personal reasons for quitting Storm Crow as well, as she disagreed with some management changes in the restaurant. She took another serving job shortly after leaving Storm Crow. Ms. Unwin does not say she sought out a restaurant that did not have a patio. Ms. Unwin had her first shift as a server at a bar on March 17, 2020, but the bar was shut down the same day due to the COVID-19 pandemic.
32. Ms. Unwin was also working as a care aid at the time of the accident. While she stopped working for that client in 2020, Ms. Unwin said this was because of the COVID-19 pandemic.
33. Overall, I find that after initially taking a few weeks off, Ms. Unwin continued with her normal employment after the accident. Where her employment ended, it was for reasons unrelated to her injuries. I find Ms. Unwin has not shown that she was substantially unable to perform her employment tasks due to her concussion.

34. I turn to Ms. Unwin's activities of daily living. IVA section 1(1) defines activities of daily living, which include activities such as preparing meals, personal transportation, and doing housework, among other things.
35. Ms. Unwin does not identify any specific activities she was or is unable to do because of her concussion, or post-concussion symptoms. She stated that her household work and chores were "relatively the same" before and after the accident, but for the month or two following the accident. She said she participates in playing music, yoga, art, cooking, and paddle boarding. She is also a kayaking guide. While I acknowledge that Ms. Unwin's headaches, tinnitus, and light sensitivity have made things more difficult, she has not demonstrated that these symptoms have led to a substantial inability to complete her activities of daily living.

Psychological or psychiatric condition

36. Ms. Unwin says she has psychological injuries or conditions, but she does not specifically identify what they are. However, there are references to possible psychological conditions in the medical evidence.
37. As with a concussion, under the MIR, for an applicant to prove a psychological or psychiatric condition is not minor, they must show it resulted in an incapacity.
38. In Dr. Waraich's January 2021 report, he said Ms. Unwin's diagnoses included moderate to severe major depressive disorder and anxiety disorder, a severe unspecified cognitive disorder, severe adjustment disorder with some PTSD-like symptoms related to the accident, and several mild-moderate personality disorders.
39. Dr. Waraich said Ms. Unwin's overall level of impairment for "work/school" was extreme, and for "home" was marked. This appears to be based on the Sheehan Disability Scale, which is simply Ms. Unwin's subjective rating out of 10 of her disability over the last week (in late December 2020). She had a subjective perception of extreme disability in terms of work and school limitation and marked disability in terms of family life / home limitation. Dr. Waraich's report contains nothing objective about Ms. Unwin's ability to perform her employment tasks or her

activities of daily living as a result of the accident or otherwise. Dr. Waraich did not discuss any details of her employment.

40. In contrast, Dr. Greer's report more than a year later suggested substantial improvement. Dr. Greer noted that Ms. Unwin's neuropsychological results indicated globally intact skills that were not incompatible with any particular career., Dr. Greer said Ms. Unwin's current experience of depression, anxiety and posttraumatic stress would require careful consideration and accommodation of her ongoing experience. However, Dr. Greer considered the impact on Ms. Unwin's future employment minimal, as she had successfully resumed work and had continued to maintain her employment despite experiencing significant low mood or depression.
41. Dr. Greer said Ms. Unwin reported being independent and appropriate with respect to all activities of daily living, although these activities can be significantly impacted when her mood is low.
42. Overall, while Ms. Unwin has provided evidence of psychological conditions, I find she has not proved an incapacity. She did not provide enough information about how her psychological conditions prevented her from completing her employment tasks or activities of daily living. It follows that I find she has not proved she has any non-minor psychological or psychiatric condition.

Neck and shoulder injuries

43. Ms. Unwin says she has non-minor injuries to her neck and shoulder.
44. Dr. Greer noted that Ms. Unwin reported daily pain, numbness and tingling in her arms, as well as neck tension.
45. Dr. Chow, who specializes in physical medicine and rehabilitation, found that as a result of the accident, Ms. Unwin had a soft tissue injury to her cervical spine, which accounted for her neck and left shoulder girdle pain.

46. So, on the medical evidence, I accept that Ms. Unwin had a soft tissue cervical spine injury.
47. To be successful, Ms. Unwin must show that this injury resulted in a serious impairment. The test for serious impairment is like the test for incapacity. Ms. Unwin must prove the impairment resulted in a substantial inability to perform her employment tasks or her activities of daily living. The impairment must be primarily caused by, and ongoing since, the accident, and not expected to improve substantially.
48. Dr. Chow opined that Ms. Unwin “does not meet the criteria for ICBC minor injury guidelines” and “suffers from a substantial inability to perform some of the essential tasks of normal life living as a result of her impairments.” I agree with the respondents that this opinion has not been properly explained. Dr. Chow did not say which activities of daily living Ms. Unwin could not do. Elsewhere in his report, Dr. Chow said Ms. Unwin was able to do housekeeping tasks, was returning to her caregiving job, and was looking for a server job. Dr. Chow then listed some of the physical demands of those jobs, but did not say Ms. Unwin could not meet any of those demands. He said that Ms. Unwin could perform a part-time job as long as she could limit prolonged static or excessive dynamic neck tasks and take leaves if her symptoms flared up. There is no evidence that her care aid and server roles were incompatible with these requirements. So, I find Dr. Chow’s conclusion that Ms. Unwin’s shoulder and neck injury was not a minor injury is not properly explained, and inconsistent with the balance of his report.
49. Further, Dr. Chow’s role as a medical expert is to provide opinions on medical matters outside of the decision-maker’s expertise, not to provide conclusions on the ultimate legal issue, which is for the court or CRT to decide. See *Brough v. Richmond*, 2003 BCSC 512. For all these reasons, I give Dr. Chow’s ultimate conclusion no weight.
50. Occupational therapist Elliott Flockhart completed a discharge report on April 26, 2022. They said Ms. Unwin was confident driving on her own. She was able to

perform self-care tasks on her own but sometimes required extra time. She was able to manage the household on her own. She had been giving herself more time to complete tasks. She completed basic chores but did not do deep cleaning. The report does not say why, and Ms. Unwin does not explain. On balance, I find Ms. Unwin was able to do all her activities of daily living, with some pain or discomfort, and with extra time.

51. Overall, I find Ms. Unwin has not proved that her neck and shoulder injury resulted in a serious impairment. She is able to do her server, care aid and other employment tasks, as well as her activities of daily living, albeit with some pain and modifications. As the legal test requires a serious impairment, I find Ms. Unwin has not proved a non-minor injury to her neck and shoulder.
52. In summary, I find Ms. Unwin has not proved any of her injuries from the April 16, 2019, accident are not minor as defined by the legislation.

FEES AND EXPENSES

53. 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 Ms. Unwin was not successful, I dismiss her claim for reimbursement of her CRT fees. I order Ms. Unwin to reimburse each respondent \$25 for their Dispute Response fee, for a total of \$150. No party claimed dispute-related expenses.

ORDERS

54. I determine that all of Ms. Unwin's injuries arising from the 2019 accident are minor injuries as defined by the IVA and the MIR.
55. Within 30 days of the date of this decision, I order Ms. Unwin to pay each respondent \$25 in CRT fees, for a total of \$150.
56. The respondents are entitled to post-judgment interest as applicable.

57. 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.



Micah Carmody, Tribunal Member