



# Civil Resolution Tribunal

Date Issued: September 3, 2025

File: AB-2023-008720

Type: Accident Claims

Category: Accident Benefits

## Civil Resolution Tribunal

Indexed as: *Lockwood v. ICBC*, 2025 BCCRT 1227

BETWEEN:

KIMBERLY LOCKWOOD

**APPLICANT**

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. On December 22, 2021, the applicant, Kimberly Lockwood, was injured in a motor vehicle accident. Ms. Lockwood says that as a result of the accident, she suffers from various impairments and health issues. She wants the respondent insurer,

Insurance Corporation of British Columbia (ICBC), to pay certain health care and rehabilitation benefits, income replacement benefits, and permanent impairment compensation.

2. ICBC says it has funded 90 health care treatments and paid over \$80,000 in income replacement benefits to date. By the time the parties made submissions, those numbers had increased, and ICBC had also paid Ms. Lockwood permanent impairment compensation. ICBC says it has met its obligations under the *Insurance (Vehicle) Act* and its regulations.
3. Ms. Lockwood represents herself. An authorized employee represents ICBC.

## **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). Section 133(1)(a) of the CRTA gives the CRT jurisdiction over the determination of entitlement to accident benefits.
5. 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, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
6. Section 39 of the CRTA says that 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 without an oral hearing. 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. Section 42 of the CRTA 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.

### ***ICBC's conduct***

8. Ms. Lockwood made extensive submissions about ICBC's conduct while handling her claim. She says ICBC staff were slow to respond and hindered her recovery by not listening to her concerns and requests. Further, she alleges that certain ICBC staff were dishonest, retaliatory, punitive, and psychologically abusive. Previous CRT decisions, such as *Oloumi v. ICBC*, 2022 BCCRT 1342, have held that the CRT's accident benefits jurisdiction is narrow, and allegations about ICBC's conduct are generally outside its scope. While those decisions are not binding on me, I agree with the analysis and adopt it here. So, I do not address the merits of Ms. Lockwood's allegations about ICBC's conduct.

### ***Tort Claims***

9. ICBC argues that Ms. Lockwood is essentially seeking tort damages for pain and suffering in her claim for permanent impairment compensation. Sections 114 and 115 of the *Insurance (Vehicle) Act* (IVA) impose a "tort ban" for accidents that happened after May 1, 2021, like this one. While Ms. Lockwood included lump sums in the Dispute Notice that suggest she was initially seeking a remedy based in tort law, her submissions make clear that she is seeking compensation under the IVA and its regulations. ICBC's submissions also demonstrate that it understood Ms. Lockwood's claim to be based on the IVA and its regulations. So, given the CRT's flexible mandate, I will consider Ms. Lockwood's claims under the IVA and its regulations.

### ***Request to reserve the right to provide further late evidence***

10. On August 13, 2025, after the parties provided their evidence and submissions, Ms. Lockwood emailed the CRT to advise that she had submitted to ICBC an information request under the *Freedom of Information and Protection of Privacy Act*.

The request is broad and does not ask for specific documents. Ms. Lockwood said she reserved the right to submit evidence obtained through this request as late evidence in this CRT dispute, or to request a reconsideration under “CRT Rule 15” should my decision be issued before the records were received.

11. Through staff, I advised the parties that CRT rule 15 does not exist, and there was no procedure for the CRT to reconsider its own decisions. I also said that in the absence of a request from Ms. Lockwood to pause the proceedings, I would proceed with adjudicating the claims before me. Ms. Lockwood has not requested to pause the proceedings. She does not identify any relevant evidence that ICBC has failed to produce. Given the CRT’s limited jurisdiction with respect to ICBC’s conduct in accident benefits claims, I find it unlikely that Ms. Lockwood’s information request would yield anything that would assist her in proving her claims. So, I proceeded to adjudicate this dispute based on the evidence before me.

## **ISSUES**

12. The issues in this dispute are
  - a. Must ICBC reimburse past health care and rehabilitation expenses or approve further health care and rehabilitation benefits?
  - b. Is Ms. Lockwood entitled to further income replacement benefits?
  - c. Is Ms. Lockwood entitled to additional permanent impairment compensation?

## **BACKGROUND, EVIDENCE AND ANALYSIS**

13. As the applicant in this civil proceeding, Ms. Lockwood must prove her claims 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.

14. The undisputed details about the accident are as follows. On December 22, 2021, Ms. Lockwood was proceeding through an intersection when she was “T-boned”, spinning her vehicle backwards. Her vehicle’s airbags did not deploy, and she was wearing a seatbelt. She exited the vehicle herself and had no visible injuries. Her car was towed from the scene and a coworker drove her home.
15. Ms. Lockwood says she could not reach ICBC by phone, so she submitted a claim online. The next morning, she woke up with stiffness, soreness, and a persistent headache. She believed this was normal post-accident discomfort and expected it to improve in a few days. She stayed home to rest and recover. By December 26, her symptoms had worsened. Ms. Lockwood did not have a family physician. She booked the earliest possible appointment through Rocket Doctor, which was on December 29. At that appointment, the physician told her to go to the hospital’s emergency department immediately, due to concern about head trauma.
16. At the hospital later that day, Ms. Lockwood reported dizziness, headaches, nausea, and difficulty focusing since the accident. She reported hitting her head on the seat’s head restraint but that she did not lose consciousness.
17. Ms. Lockwood says the emergency physician ordered a CT scan of her brain that confirmed she had a concussion. However, the medical imaging report said, “no acute intracranial abnormality”. The notes from the physician, Dr. Gavin M. Sugrue, say “patient’s CT scan is unremarkable to me. Patient treat this concussion. I given her instruction sheet on concussion. Follow-up if not improving” (reproduced as written by speech recognition software). The diagnosis was “concussion”, and Ms. Lockwood was discharged with instructions on managing a concussion.
18. Ms. Lockwood attempted to return to her work as a construction project manager. On a doctor’s advice, she attempted to reduce her work schedule to three days per week, 6 hours per day. She says when she informed her employer of this requirement, she was fired. Her Record of Employment shows her last day worked was February 8, 2022.

19. In August, 2022, general practitioner Dr. Bellinda Dykstra completed a “reassessment medical report”. Dr. Dykstra supported continued restrictions on Ms. Lockwood’s duties given that prolonged computer use caused her headaches, driving to work was questionable, and she lacked the ability to plan, focus, organize, or pay attention to detail.
20. On February 13, 2023, Ms. Lockwood underwent a comprehensive medical assessment, arranged by ICBC, with Dr. James Atkins. Dr. Atkins diagnosed Ms. Lockwood with a concussion with evidence of post-concussion syndrome, soft tissue neck and right shoulder injuries, increased depression and anxiety, increased headaches, and eye movement disturbance and dizziness, which were likely concussion-related. Dr. Atkins concluded that after treatment and rehabilitation were completed, Ms. Lockwood would likely be able to return to work as a construction manager, although a graduated return to work was premature at that time. Dr. Atkins said Ms. Lockwood needed clarification of diagnosis and an active rehabilitation program for her shoulder, provided no significant pathology was found. Ms. Lockwood does not mention her shoulder in her submissions, so infer that it has substantially healed. Dr. Atkins also recommended Ms. Lockwood see a counsellor and an optometrist with concussion specialization, which she later did.
21. In 2023, a neurologist, Dr. Gurpreet Khakh, assessed Ms. Lockwood twice. Dr. Khakh reported that Ms. Lockwood had post-concussion syndrome and significant mental health issues since the accident, including anxiety. She had “baseline insomnia” but it worsened after the accident. Dr. Khakh referred Ms. Lockwood to a psychiatrist for anxiety and depression. Dr. Khakh attempted, without success, to treat Ms. Lockwood’s migraines with various medications, and then recommended treatment with Botulinum toxin (Botox). ICBC funded that treatment with Dr. Jeffrey Oyler. Dr. Oyler’s reports said Ms. Lockwood responded well to Botox, but the effect is temporary, so she needs ongoing treatment.
22. In 2023, Ms. Lockwood attended vestibular therapy, vision therapy, physiotherapy, kinesiology, chiropractic, and counselling. Some weeks she had up to four

appointments. Some of the appointments aggravated some of her symptoms. Ms. Lockwood reported that she did not find counselling helpful.

23. ICBC's medical calendar shows that Ms. Lockwood did not attend any appointments between October 7, 2023 and May 23, 2024. Perhaps not coincidentally, Ms. Lockwood reports that in October 2023, her driver's licence was revoked for medical reasons. This is consistent with a September 2023 medical report in which the doctor, whose name is illegible to me, noted they were reporting to the relevant authorities about possibly cancelling Ms. Lockwood's driver's licence given her ongoing visual instability.

24. In a June 13, 2024 functional job match assessment, occupational therapist Sheila Branscombe said that without resolution of her visual issues, it was unlikely that Ms. Lockwood would be successful in returning to any form of work or training. Ms. Lockwood has not re-entered the workforce to date.

25. On September 12, 2024, Ms. Lockwood underwent an independent neuropsychology assessment with Dr. Will Reimer. I discuss the results of that assessment where relevant below.

***Pre-accident health issues***

26. ICBC says Ms. Lockwood has relevant pre-existing health conditions. ICBC does not say how this affects her entitlement to benefits, or which benefits this affects.

27. On February 4, 2021, Ms. Lockwood saw Dr. Sina Javadi for two weeks of daily headaches, a week of vomiting, and sensitivity to light and noise. Dr. Javadi noted she had a previous history of migraines but that they did not last more than a day. Her vision was fine.

28. Ms. Lockwood says these headaches stopped as soon as she stopped drinking coffee. She saw a physician twice between that visit and her accident, both times about unrelated issues. She did not mention headaches, vomiting, or light sensitivity. I agree with Ms. Lockwood that there is no medical evidence linking her

migraines before the accident to the migraines and other issues she experienced after the accident. I find that her migraines before the accident did not significantly interfere with her ability to work, and there is no evidence she had a history of anxiety or depression. Overall, I find Ms. Lockwood's pre-accident health history is not a significant factor in assessing her entitlement to benefits.

### ***Health care and rehabilitation benefits***

29. IVA section 123 requires ICBC to pay or reimburse an insured for reasonable expenses for necessary health care due to their accident injuries. Section 19 of the *Enhanced Accident Benefits Regulation* (EABR) says an insured is entitled to certain pre-approved treatments within 12 weeks of an accident. After that, EABR section 19(3) says ICBC only needs to cover treatment if it will (a) facilitate the insured's recovery or (b) address a decline in their physical or mental function from their accident injuries. These benefits are paid or reimbursed as they are incurred, not paid in a lump sum in advance.
30. ICBC says it has funded 103 treatments, including 7 acupuncture, 15 chiropractic, 14 counselling, 14 kinesiology, 33 physiotherapy, 17 vestibular physiotherapy, 2 occupational therapy, and 1 massage therapy session. I have reviewed ICBC's calendar, which shows that Ms. Lockwood received these treatments between January 2022 and June 2024. ICBC says it has paid for every appointment Ms. Lockwood has attended, up to the limits set out in section 19(4) of the EABR.
31. Ms. Lockwood does not clearly articulate which benefits she has been denied or seeks entitlement to. I agree with ICBC's submission that her claims appear to relate to three things: tinted glasses, semaglutide medication, and naturopathic treatments and supplements.
32. In late submissions, Ms. Lockwood said ICBC was no longer covering her Botox treatment, and that her next treatment was scheduled for July 2025. ICBC has funded Ms. Lockwood's Botox treatments to date, so I find it speculative that ICBC will not cover further recommended Botox treatment. In any event, it would be unfair

to make any orders about Botox because ICBC did not have notice that it needed to address Botox treatment. So, I decline to consider that issue.

33. Ms. Lockwood submitted evidence about reimbursement for travel to treatments. ICBC reimbursed Ms. Lockwood for travel, but I see from the parties' emails that they disagreed at times about possible data entry errors and about the most efficient routes to and from appointments. Ms. Lockwood does not claim anything for travel reimbursement, so I find she likely included these emails to support her allegations that ICBC has been challenging to deal with, which I addressed above.

*Glasses frames*

34. Ms. Lockwood seeks \$203 for frames to hold her rose-tinted lenses. Her vision therapist, Dr. Tamsyn Sitler, recommended blue-tinted lenses in May 2024, which ICBC covered. ICBC wanted Ms. Lockwood to re-use the frames from the blue-tinted lenses for her rose-tinted lenses that Dr. Sitler later recommended. In March 2025, Dr. Sitler advised that Ms. Lockwood switched between her blue and rose glasses. Based on that information, in June 2025, ICBC reimbursed Ms. Lockwood \$203 for the second frames. Ms. Lockwood did not say anything in her final reply about the frames, so I find ICBC's payment has addressed her concern, and the issue is now moot. So, I make no order.

*Semaglutide*

35. Ms. Lockwood says that before the accident, she maintained a healthy weight, exercised regularly, and led an active lifestyle. She says after the accident, she gained about 30 pounds and was diagnosed as pre-diabetic. In November 2022, she was prescribed semaglutide, known by the brand-name Ozempic. She took the drug for three months, but stopped due to the cost as ICBC refused to pay for the drug. She took it again from April to December 2024 and then transitioned to lower doses as her weight dropped. Ms. Lockwood argues that ICBC should pay for semaglutide because her weight gain was caused by the accident, and as a side effect of other medications prescribed because of the accident, such as those for anxiety and depression.

36. EABR section 23 confirms that ICBC must reimburse prescription and non-prescription medication expenses that are reasonable, necessary, and related to an injury caused by the accident.
37. ICBC says Ms. Lockwood has not provided evidence to show that her injuries were the “inciting factor” that led her doctor to prescribe semaglutide. I disagree. There is no evidence Ms. Lockwood had issues with weight gain before the accident. She first raised the issue on December 1, 2022. Dr. Danielle Kelsey Yee noted that Ms. Lockwood reported gaining about 20 pounds, and prescribed Ozempic. ICBC points to notes indicating that Ms. Lockwood was not meticulously weighing herself, but I find nothing turns on the precise amount of weight gained. I accept her estimated weight gain. I also find her weight gain was most likely caused by the accident. I say this because of Ms. Lockwood’s consistent reporting of vertigo and headaches that prevented her from being active.
38. ICBC argues that “off-label” use of semaglutide is not reasonable or necessary. I infer that “off-label” means that semaglutide is not specifically approved for weight loss. ICBC also says there are other methods to lose weight that do not require medication, and Ms. Lockwood should have tried these unstated other methods first. However, ICBC did not provide a medical opinion that Ms. Lockwood should have been encouraged to try other methods, or that those methods would have likely resulted in weight loss given the restrictions on her activities. Nor did it provide a medical opinion that semaglutide is not effective for weight loss. The legislation does not require that prescription drugs be used “on label”. I put significant weight on the fact that Ms. Lockwood’s doctors prescribed semaglutide for her specific circumstances. I find the semaglutide prescription was reasonable and necessary, and ICBC must reimburse the drug costs.
39. Ms. Lockwood says her semaglutide receipts total \$1,979. I find they total \$3,395.21. However, Ms. Lockwood explicitly claims only \$1,979, confirming the amount more than once in her final reply. So, I find I can only order ICBC to reimburse her \$1,979. She is also entitled to interest as set out in my order below.

### Naturopathic treatment and supplements

40. Ms. Lockwood says pharmaceutical interventions for her anxiety and depression caused significant adverse effects, such as hallucinations and worsening psychological symptoms. She says that as a result, she pursued naturopathic treatment focused on stress reduction. Her naturopathic doctor, Kayla Ruschowski, recommended supplementation with “GABA” and omega-3 fatty acids, among other things. Ms. Lockwood says these treatments helped and had no negative side effects.
41. ICBC says no medical doctor recommended Ms. Lockwood see a naturopath or take supplements. Ms. Lockwood points to Dr. Reimer’s neuropsychological report as supporting stress management treatment. I find the report said Ms. Lockwood would benefit from solution-focused therapy and practical stress management strategies. It did not recommend that Ms. Lockwood see a naturopath or take any supplements. Ms. Lockwood does not explain exactly how treatment by Dr. Ruschowski helps her manage stress or provides solution-focused therapy.
42. ICBC notes that when Ms. Lockwood submitted a naturopathic visit receipt, ICBC asked to speak with Dr. Ruschowski before it would make a decision on reimbursement. However, Ms. Lockwood explicitly told ICBC it was not authorized to speak to Dr. Ruschowski. Given this, it is not surprising that ICBC concluded that the treatment was not a reasonable and necessary expense.
43. Overall, I find there is nothing in the medical reports or records establishing that naturopathic services or supplements were necessary to treat Ms. Lockwood’s accident-related injuries. So, I dismiss this aspect of her claim.

### ***Income replacement benefits***

44. ICBC must determine an insured’s entitlement to income replacement benefits under IVA Part 10, Division 6, and the *Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation* (IRBR). Income

replacement benefits are based on 90% of an insured's net income, subject to certain limits, which are adjusted annually.

45. ICBC has paid Ms. Lockwood \$180,807.65 in income replacement benefits from February 22, 2022 to June 30, 2025. It continues to pay Ms. Lockwood income replacement benefits every two weeks. Ms. Lockwood does not take issue with ICBC's calculations. Rather, she takes issue with its deductions for benefits from other sources, which she undisputedly did not receive. I explain the deductions first before discussing the law.

*ICBC's deductions for Employment Insurance and Canada Pension Plan disability benefits*

46. ICBC initially deducted employment insurance (EI) sickness benefits it anticipated Ms. Lockwood might receive under the federal *Employment Insurance Act*. In a March 14, 2022 email to ICBC, Ms. Lockwood said she had started an application for EI benefits but was required to provide a doctor's note saying she was unable to work at all in order to approve her claim, which she said was not the case. She said she would go to a walk-in clinic but did not anticipate a doctor agreeing that she was fully disabled. It appears that ICBC did not directly respond to Ms. Lockwood's email.
47. Service Canada's April 2022 denial notification said it would not pay EI sickness benefits because it did "not have medical evidence on file to support [Ms. Lockwood's] incapacity." ICBC asked Ms. Lockwood about this, and she responded that she submitted "everything" to Service Canada, and it had done a full investigation.
48. In May 2022, ICBC issued a shortfall payment making up for the EI sickness benefit deductions. The May 4, 2022 letter advising of the adjustment did not suggest ICBC expected Ms. Lockwood to appeal Service Canada's decision. However, about one year later, ICBC apparently determined that Ms. Lockwood should have appealed the decision, or provided better evidence. In May 2023, ICBC deducted \$8,520 from Ms. Lockwood's income replacement benefits based on 15 weeks of potential EI

benefits. ICBC argues that it correctly deducted this amount under IVA section 122(3) because Ms. Lockwood either elected not to claim, or forfeited her claim to EI compensation.

49. On June 27, 2023, ICBC directed Ms. Lockwood to apply to Service Canada for disability benefits under the CPP (CPP-D) and send ICBC a copy of the decision. EABR section 18(2) provides that Canada Pension Plan (CPP) benefits are prescribed for the purposes of IVA section 122.
50. Ms. Lockwood's CPP-D application is dated September 22, 2023. It is a 19-page form, plus a 9-page medical report. A walk-in physician completed the report. Their name is illegible to me.
51. On August 1, 2024, Service Canada denied Ms. Lockwood's application for CCP-D. The letter said the medical documentation did not support that Ms. Lockwood's condition was both severe and prolonged as defined under the applicable legislation. It further said that Ms. Lockwood's condition did not prevent her from doing "any type of substantially gainful work". It said she could submit a new application with new medical evidence if her condition changed significantly. She could also request a reconsideration within 90 days.
52. On May 27, 2025, ICBC advised Ms. Lockwood that it was reducing her income replacement benefits to reflect that it estimated her CPP-D benefits at \$1,203.88 per month. Those deductions took effect on May 20, 2025.
53. For reasons that are not explained, Ms. Lockwood apparently did not provide her CPP-D denial to ICBC until June 17, 2025. When she did, ICBC asked Ms. Lockwood to provide a signed CPP repayment agreement and proof of her appeal of the decision. ICBC instructed Ms. Lockwood to provide Service Canada with Dr. Reimer's September 2024 neuropsychology assessment. This would make it a new application rather than an appeal or request for reconsideration. Ms. Lockwood responded by citing non-existent or inapplicable sections of regulations, likely a result of relying on artificial intelligence, as she did in her confusing reply

submissions in this dispute. In any event, she asserted that ICBC had no authority to withhold income replacement benefits for benefits she would not receive. ICBC said if she provided a repayment agreement, it would stop making deductions from her income replacement benefits. She refused to provide the agreement.

*Are ICBC's deductions consistent with the legislation?*

54. IVA section 122 says ICBC must not pay benefits unless the amount exceeds the amount of compensation a person is entitled to under various other sources. The sources prescribed under EABR section 18 include similar benefits provided under the *Canada Pension Plan* or by the government of a jurisdiction outside British Columbia, which I find includes Canada.
55. This “other compensation” includes amounts “paid or payable”, among other things. IVA section 122(3) says, in effect, that ICBC can deduct the other compensation even if the person has “elected not to claim or has forfeited” their claim for other compensation.
56. ICBC takes the position that it was entitled to make the deductions it made from Ms. Lockwood’s income replacement benefits because both the EI sickness benefits and CPP-D benefits, though not paid, were “payable” under IVA section 122. ICBC, in essence, argues that because Ms. Lockwood did not appeal or seek reconsideration of the decisions, or reapply for the benefits, she has forfeited her right to those benefits and ICBC can deduct an equivalent amount.
57. In *Larden v. ICBC*, 2025 BCCRT 1049, ICBC argued that the applicant should have pursued an appeal to defend her contractual entitlement to disability benefits from her employment insurer under IVR section 81(1). That section says that for accidents that happen before May 1, 2021, ICBC will not pay disability benefits to the insured if they receive compensation under an insurance policy or from an employer. The vice chair found that ICBC had not proven that benefits remained payable given that the applicant had applied for, and been denied, disability benefits. He further found it would be unreasonable to expect an insured to pursue

all appeals until they are exhausted. Although CRT decisions are not binding on me, I agree with the vice chair's reasoning that an insured is not expected to pursue all appeals until they are exhausted.

58. Shortly after the CRT's *Larden* decision, the BC Supreme Court issued *Courchesne v. Chau*, 2025 BCSC 1479. *Courchesne* involved an accident that occurred before the "tort ban" took effect, where IVR Part 7 benefits were to be deducted from a plaintiff's tort damages to prevent double recovery. The respondents argued that they should be entitled to deduct \$1 million "payable" under Ontario's legislation for a catastrophic injury. The plaintiff had applied unsuccessfully for those benefits. She indicated that she did not plan to appeal the ruling. The defendants argued they were prejudiced by the plaintiff's lack of appeal. The court was not persuaded. It found that there was no duty to appeal in the legislative schemes or the insurance policy, and the court was given no case authorities for the proposition that a plaintiff is obligated to pursue appeals of denials of coverage from other insurance schemes. Lastly, the court said it had no guidance on how to assess the potential for a successful appeal in any event.
59. The legislation does not explicitly require an insured to appeal Service Canada's decisions about benefits. The question is whether an insured's decision not to take additional steps, once rejected, amounts to forfeiting their claim. While not determinative, Merriam-Webster's online dictionary defines "forfeit" as "to lose or lose the right to, especially by some error, offense, or crime." Declining to challenge a denial of benefits does not involve an offense or crime. It could involve an error in judgment or execution, in certain cases.
60. I find that whether compensation that an insured has "forfeited" can be considered "payable" depends on all the circumstances. I find the circumstances to consider include the insured's personal circumstances, the complexity of the process by which the other compensation can be claimed, and the likelihood of success, including any changes in circumstances or new evidence available. As the party asserting that benefits were deductible, ICBC must prove that that the

compensation from other sources was, more likely than not, payable. As summarized in *Courchesne*, uncertainty as to entitlement to benefits must be resolved in favour of the applicant.

61. I start with the EI sickness benefits. I have no evidence about whether Service Canada accepts EI appeals a year after its decisions, as ICBC instructed Ms. Lockwood to do. I have no evidence about whether Service Canada would consider new evidence, or whether that evidence would be persuasive about the issue of disability for a 15-week period in 2022. I am also mindful of the fact that when ICBC instructed Ms. Lockwood to apply for EI sickness benefits, it advised that if she was only partially disabled, she likely wouldn't be eligible for EI sickness benefits. ICBC does not argue that Ms. Lockwood was fully disabled in early 2022. She returned to work in January 2022 and was working part time until February 8 when she was fired. Her medical records show that in February, a doctor recommended she work up to 4 days a week and 7 hours a day. She saw another doctor on March 9, but that doctor's notes do not say anything about being unable to work. Her next doctor's appointment was the ICBC assessment in August 2022, where Dr. Dykstra said she would need accommodated work hours. Overall, the evidence does not suggest Ms. Lockwood was unable to work when she applied for EI sickness benefits, which ICBC says was a prerequisite to receiving EI sickness benefits. For these reasons, I find ICBC has not established that the EI sickness benefits were payable under IVA section 122. I order ICBC to pay Ms. Lockwood \$8,520 for its deductions from her income replacement benefits for EI sickness benefits.
62. As for CPP-D benefits, I agree with ICBC that Dr. Reimer's report makes it somewhat more likely that a new CPP-D application would be successful. The physician who provided the report for Ms. Lockwood's CPP-D application said they did not know whether Ms. Lockwood could or could not work. Dr. Reimer's report is more detailed and more conclusive. Dr. Reimer said Ms. Lockwood's symptoms are persistent and cause significant impairment in her ability to engage in competitive employment. Dr. Reimer said the potential for Ms. Lockwood to become competitively employed in any form of work is highly unlikely. When her memory,

focus, attention and processing issues are combined with her headaches, physical limitations and no longer being able to drive, she is not suitable for competitive employment. Her disability is “likely to be permanent.”

63. Ms. Lockwood does not provide any reason why she cannot reapply for CPP-D with Dr. Reimer’s report. She completed the process once, so it should not be particularly difficult for her to complete it again. For these reasons, I find ICBC has established that the CPP-D compensation is, more likely than not, payable under IVA section 122. Until Ms. Lockwood reapplies for CPP-D, ICBC may continue to make the deductions.
64. If Ms. Lockwood’s CPP-D application is unsuccessful, ICBC will have to reimburse her for the shortfall that resulted from CPP-D benefits anticipated but not received. If her application is successful, ICBC will have to determine what, if anything, it owes based on the difference between the anticipated CPP-D compensation and what Ms. Lockwood in fact receives.

### ***Permanent impairment compensation***

65. IVA section 129(1) says that if an insured suffers a permanent impairment from an accident, they are entitled to a lump sum payment for that impairment. Section 129(2) requires ICBC to calculate and determine an insured’s entitlement to compensation according to the *Permanent Impairment Regulation* (PIR).
66. PIR section 10(1) says an impairment is “permanent” when, after enough time for optimal tissue repair, the impairment (1) has become static or has stabilized, and (2) is unlikely to change significantly with further therapy. Section 10(2) says ICBC must not pay compensation until the impairment is permanent.
67. On June 25, 2025, ICBC paid Ms. Lockwood \$25,119.75 in permanent impairment compensation. This equates to 15% of \$167,465, calculated under PIR section 9. ICBC says this was for three impairments, each assessed at a permanent impairment percentage of 5%. The first two are psychiatric conditions under PIR Schedule section 147. They are “major depressive disorder” and “generalized

anxiety disorder". The third is a functional alteration of the brain under PIR Schedule section 55, specifically a "mild neurocognitive disorder". These were assessed by Dr. Reimer.

68. Ms. Lockwood says she is entitled to \$81,043.15. She seeks permanent impairment compensation for a concussion under section 43, and a higher level of compensation under sections 55 and 147. She also asks me to order ICBC to assess her visual and sensory impairments under the applicable PIR Schedule categories.

### *Concussion*

69. PIR Schedule section 43 addresses a cerebral concussion or contusion (bruise). One requirement is a concussion diagnosis by an authorized health care provider, which Ms. Lockwood undisputedly received. The other requirements are that the signs and symptoms of a concussion (post-traumatic amnesia and loss of consciousness) must be observed at the time of the accident or immediately afterward, and documented by an authorized health care provider within 48 hours of the accident. The exception is where the insured has a reasonable excuse not to obtain medical attention within 48 hours.
70. Ms. Lockwood says COVID-19-related restrictions, holiday closures, and not having a vehicle provide a reasonable excuse for not seeking medical attention right away. She sought treatment four days after the accident, but had to wait a further 3 days for an appointment, at which time she was told to go to her local hospital's emergency department. The difficulty for Ms. Lockwood is that she did not report any post-traumatic amnesia at the hospital, and she explicitly reported that she did not lose consciousness. In submissions, Ms. Lockwood says she lost consciousness. She does not squarely address why her recollection has changed. I find the initial report is more reliable given the number of years that have passed. There are also other reports in evidence where Ms. Lockwood volunteered that she did not lose consciousness, such as a January 14, 2022 consultation with Dr. Shamira Lowton. So, I find that even if Ms. Lockwood has a reasonable excuse for

not seeking medical attention within 48 hours, she has not met the requirement of post-traumatic amnesia or a loss of consciousness. While I acknowledge that multiple doctors have diagnosed Ms. Lockwood with a concussion and post-concussion syndrome, she does not meet section 43's requirements to be entitled to compensation for a concussion. I dismiss this aspect of her claim.

*Functional alteration of the brain – mental functions*

71. PIR Schedule section 55 addresses higher cognitive or integrative mental functions, which includes dementia, neurologic deficiencies, and adverse effects of medication. To be entitled to more than the 5% that ICBC determined applied, Ms. Lockwood must show that her ability to perform her activities of daily living is impaired to the extent that she requires some degree of supervision. There is no evidence that she requires supervision. She says that Dr. Reimer noted she requires external structure, supervision by family, and occupational therapy. However, Dr. Reimer's report did not mention supervision by family, or at all. It said she will need to find ways to adapt to her significant memory problems and use memory aids to help her plan and organize her life, but this does not suggest she needs supervision. Ms. Lockwood does not say she relies on family for supervision or that she has hired anyone to supervise her activities of daily living. So, I dismiss this aspect of her claim.

*Psychiatric conditions*

72. As noted, ICBC determined under PIR Schedule section 147 that Ms. Lockwood had a major depressive disorder and a generalized anxiety disorder, based on Dr. Reimer's findings.

73. Like PIR Schedule section 55, section 147 breaks down psychiatric conditions into different classes based largely on the extent of supervision required. ICBC determined that both of Ms. Lockwood's diagnosed conditions fell into class 5. To fall into class 4, Ms. Lockwood's conditions must require psychiatric follow-up on a monthly basis. ICBC says she has only occasionally attended counseling. Ms. Lockwood reported that she found counselling of limited value. Neither Dr. Reimer

nor any other professional recommended monthly psychiatric follow-up. The fact that Ms. Lockwood has not consistently seen a psychiatrist, psychologist, counsellor, or other mental health professional suggests she does not believe she requires monthly psychiatric follow up. Overall, the evidence does not bring Ms. Lockwood to a class 4 psychiatric condition.

74. Ms. Lockwood also says she has post-traumatic stress disorder (PTSD). However, Dr. Reimer found she did not have significant symptoms of PTSD, as most of her stress was related to her reduced functioning post-accident and her frustration of dealing with ICBC. There is no other medical diagnosis of PTSD.

75. For these reasons, I find Ms. Lockwood is not entitled to further permanent impairment compensation under PIR Schedule section 147.

#### Other

76. Ms. Lockwood says ICBC has not yet assessed her visual tracking deficits, double vision, and depth perception dysfunction. PIR Schedule part 4 addresses vision, including visual acuity, visual field deficits, and ocular motility. Ocular motility refers to the coordinated movements of the eyes. I find this may include tracking deficits, double vision and depth perception issues.

77. According to a March 4, 2025 Kamloops Vision Therapy report, Ms. Lockwood was still reporting a number of concerning visual issues. Dr. Tamsyn Sitler tested Ms. Lockwood's eye alignment, focusing, teaming and tracking. Dr. Sitler noted alignment issues or exophoria, convergence insufficiency, oculomotor dysfunction, and visual vestibular mismatch as a result of the accident. However, for each of those concerns, Ms. Lockwood showed either stable improvements or mostly stable improvements. Dr. Sitler said they would monitor Ms. Lockwood in four months to ensure the improvements remained stable.

78. ICBC does not provide its position on ocular motility or the degree to which Ms. Lockwood's vision issues constitute a permanent impairment. It may be that ICBC is waiting to confirm that Ms. Lockwood's vision issues have stabilized, which Dr.

Sitler said could be confirmed in July 2025. So, I order ICBC to, within 60 days, confirm whether Ms. Lockwood's vision issues have stabilized, and if they have, assess Ms. Lockwood's entitlement to permanent impairment compensation under PIR Schedule part 4.

79. Ms. Lockwood's submissions also raise concerns around vertigo and vestibular impairments. I note that in a March 28, 2025 email, Ms. Lockwood's then-lawyer asked ICBC if it was prepared to pay for vestibular functional impairment, which includes peripheral and central vertigo. I note further that Dr. Reimer's report says Ms. Lockwood has balance issues and experiences dizziness and vertigo. ICBC does not say whether it has considered Ms. Lockwood's vestibular functional impairment under PIR Schedule section 150. So, I order ICBC to, within 60 days, assess Ms. Lockwood's entitlement to permanent impairment compensation under PIR Schedule section 150.

## **FEES, EXPENSES AND INTEREST**

80. The *Court Order Interest Act* (COIA) applies to Ms. Lockwood's \$1,979 in medication expenses, which I find are special damages. Applying COIA section 1(2) and (3), I calculate interest as \$90.53.

81. The COIA also applies to the \$8,520 in income replacement benefits I order ICBC to repay. As the evidence indicates ICBC deducted this in May 2023, I calculate pre-judgment interest from May 31, 2023 to the date of this decision. This is \$868.64.

82. Under CRTA section 49 and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Ms. Lockwood paid \$125 in CRT fees, and ICBC paid \$25. As each party was partly successful, I find they should split the CRT fees. This means I order ICBC to pay Ms. Lockwood \$50.

83. Ms. Lockwood claimed \$3,000 in estimated legal fees. CRT rule 9.5(3) allows the CRT to order a party to pay another party's legal fees if the dispute is in the CRT's

accident claims jurisdiction. However, Ms. Lockwood did not provide any supporting evidence, such as an invoice or letter from her former lawyer explaining what, if any, legal fees she paid. So, I dismiss her claim for legal fees.

## **ORDERS**

84. I order ICBC to, within 60 days of the date of this decision, confirm whether Ms. Lockwood's vision issues have stabilized, and if they have, assess Ms. Lockwood's entitlement to permanent impairment compensation under PIR Schedule part 4.
85. I order ICBC to, within 60 days of the date of this decision, assess Ms. Lockwood's entitlement to permanent impairment compensation under PIR Schedule section 150.
86. Within 21 days of the date of this decision, I order ICBC to pay Ms. Lockwood \$11,508.17, broken down as follows:
  - a. \$8,520 in income replacement benefits,
  - b. \$1,979 for prescription medication,
  - c. \$959.17 in pre-judgment interest, and
  - d. \$50 in tribunal fees.
87. Ms. Lockwood is also entitled to post-judgment interest under the *Court Order Interest Act*.

88. This a validated decision and order. Under CRTA sections 57 and 58, 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.

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Micah Carmody, Tribunal Member