



FSCO A11-001877

BETWEEN:

M.T.

Applicant

and

RBC GENERAL INSURANCE COMPANY

Insurer

REASONS FOR DECISION

Before: Lloyd (J. R.) Richards

Heard: March 25, 26, 27, 28 and May 24, 2013, in Hamilton, Ontario.
Written submissions were received on June 28, 2013.

Appearances: Daniel Roncari for M.T.
Aldo Picchetti for RBC General Insurance Company

Overview:

The Applicant, M.T., was injured in a motor vehicle accident on June 20, 2009. She applied for and received statutory accident benefits from RBC General Insurance Company ("RBC"), payable under the *Schedule*.¹ RBC subsequently terminated M.T.'s benefits. The parties were unable to resolve their disputes through mediation, and M.T. applied for arbitration at the Financial Services Commission of Ontario under the *Insurance Act*, R.S.O. 1990, c.I.8, as amended.

¹ *The Statutory Accident Benefits Schedule — Accidents on or after November 1, 1996*, Ontario Regulation 403/96, as amended.

M.T. claims that she is entitled to receive income replacement benefits, housekeeping and home maintenance benefits, as well as attendant care benefits from RBC. She has not worked in any capacity since the motor vehicle accident, and even though she was not working at the time of the motor vehicle accident, it was always her intention to return to work and she was capable of doing so. Furthermore several medical practitioners are of the opinion that she cannot work in any capacity for the foreseeable future.

RBC claims that, because of the motor vehicle accident, M.T. suffered soft tissue injuries and an exacerbation of a pre-existing psychological condition. In its opinion, M.T. had removed herself from the work force due to psychological issues prior to the accident on June 20, 2009.

The particular issues in this hearing are:

1. Is M.T. entitled to an income replacement benefit at the rate of \$267.26 per week from March 22, 2010 to date and ongoing?
2. Is M.T. entitled to housekeeping and home maintenance benefits in the amount of \$100.00 per week from March 22, 2010 to June 19, 2011?
3. Is M.T. entitled to attendant care benefits at the rate of \$217.19 per month from June 20, 2009 to June 19, 2011?
4. Is M.T. entitled to a Special Award?
5. Is M.T. entitled to interest for the overdue payment of benefits?

Result:

1. M.T. is entitled to an income replacement benefit at the rate of \$267.26 per week from March 22, 2010 to date and ongoing.

2. M.T. is entitled to housekeeping and home maintenance benefits in the amount of \$50.00 per week from August 1, 2009 to June 19, 2011.
3. M.T. is not entitled to an attendant care benefit from June 20, 2009 to June 19, 2011.
4. M.T. is not entitled to a Special Award.
5. M.T. is entitled to interest for the overdue payment of benefits.

EVIDENCE AND ANALYSIS:

History

Prior to the motor vehicle accident M.T. was receiving employment insurance benefits. Her evidence about her employment history is that she entered the workforce at 16 and worked at A & P as well as Fortino's in the meat wrapping and other departments. She was hired at Toyota Motor Company in 1988 and worked there on a full time basis until she discovered tendinitis in her lower right arm in 1992. She lost the use of her lower right arm and was awarded workplace compensation, which she still receives. She left Toyota in 1994 and worked again in a number of positions until she started a job with Landmark Structures in 2006. At Landmark she was a project coordinator assistant and her job duties included scheduling, purchasing, reading blueprints, receiving and other administrative tasks. In July 2008, M.T. had a breakdown because of workplace stress and was off work for 10 weeks. She returned to Landmark in or around September or October 2008. She worked for four weeks and was terminated in November 2008. She was off work for approximately 8 months prior to the motor vehicle accident.

M.T. claims that it was her intention to return to work, but she decided to take a break. She moved to Manitoulin Island in January 2009 to live with friends. She claims that she helped her friends with their children and with cooking, cleaning, gardening and taking care of her sick friend. M.T. claims that in late May 2009 her employment insurance was close to running out so she contacted a number of temporary employment agencies in Sudbury. Her intention was to

work in Sudbury during the week and return to Manitoulin Island on weekends. She claims that her plans were derailed because of the motor vehicle accident.

RBC contends that M.T. had removed herself from the workforce prior to the motor vehicle accident because of her pre-existing impairments.

Causation

In accident benefits cases such as this, “material contribution” is the proper test to determine if M.T. cannot work because of her pre-existing impairments, or because of impairments arising from the motor vehicle accident. This means that “a cause of the disability - injuries arising from a motor vehicle accident – is materially contributing to the disability despite other causes, whether they arose before or after the accident.”²

If M.T.’s impairments are shown, on the material contribution causation test, to have resulted from the accident, then RBC’s liability for accident benefits is engaged in accordance with the provisions of the *Schedule*. In addition, RBC will not escape liability just because M.T. suffered from impairments prior to the motor vehicle accident.

In considering M.T.’s pre-accident condition versus her post accident condition, I find that the motor vehicle accident has materially contributed to her impairments.

Dr. Geoffrey Holdway has been M.T.’s family physician for over 25 years. I found him to be a credible and consistent witness who had a very clear understanding of M.T.’s pre-accident and post-accident conditions.

Dr. Holdway’s clinical notes and records³ indicate that M.T. has an extensive pre-accident history of depression and other issues. As early as July 8, 2003, Dr. Holdway’s notes indicate that M.T. was taking Ciprallex, an anti-depressant. His March 1, 2004 entry states that M.T. was

²*Arunasalam and State Farm Mutual Automobile Insurance Company* (FSCO: P09-00025, June 3, 2010), p. 9

³Exhibit 5

abused physically and mentally by partners in the past, has failed relationships, a history of depression and “[p]robably borderline personality”. On January 9, 2007 Dr. Holdway recorded that M.T. had fallen and injured her head and left shoulder, which left her in a great deal of pain and hardly able to lift her arm. She also had severe pain in her left knee and left shoulder, with reduced movement. M.T. visited Dr. Holdway on February 16, 2007 because of depression. He noted that she had been really depressed for about three months and that she was unhappy in her job and not in a good relationship with her partner. M.T. had lost interest in daily activities and was not going out with her friends. Dr. Holdway stated that for the last five years or so, M.T. had “made a go of things, however she had fallen into the pits again.” Dr. Holdway diagnosed M.T. with moderate major depression (recurrent) on May 20, 2008.

Dr. Holdway’s medical history of M.T. continues in this vein right up to the motor vehicle accident. Significantly, his notes reveal the following. On July 10, 2008 he noted that she was tearful, panicky, and anxious. She had renewed her relationship with a former partner that had been dysfunctional in the past and her partner had again been physically and mentally abusive to her. Dr. Holdway diagnosed a personality disorder, which he claimed to be probably borderline in nature.

His July 11, 2008 clinical note states that M.T. was on sick leave from her job and told him “she is going to lose it”. She found the job too stressful. She was also not doing well with her social life. She was tearful and crying and feeling low, depressed and anxious. He remarked that she had a long history of episodes of dysfunction and not being able to cope. He did not feel that she was fit to work at that time but that, hopefully, with the passage of time things would improve. M.T., despite Dr. Holdway’s concerns, returned to work in or around September 2008.

Dr. Holdway restarted M.T. on 10 mg of Cipralext on June 4, 2009, noting that she had a history of major depression in the past.

Dr. Holdway’s evidence about M.T.’s past patterns is in stark contrast to her present condition. Where she used to bounce back from crises and remain in the work force, since the motor vehicle accident M.T.’s impairments have prevented her from working.

Dr. Holdway remarked about M.T.'s headaches, neck pain and difficulties sleeping. By January 2010 she was taking 6 Percocets a day. At this point Dr. Holdway began actively attempting to refer M.T. to a chronic pain clinic. By the summer of 2012, M.T. had been approved for the Ontario Disability Support Plan and Dr. Holdway had begun injecting her with steroids to address her pain. Dr. Holdway's prognosis was that the best he could hope for with M.T. was a 30% improvement in her chronic pain. In evidence at this hearing Dr. Holdway stated that M.T. always had a good work ethic and that this is the longest time that M.T. had been off work since he had started treating her. He had recognized since 2004 that M.T.'s relationships contributed to her self-esteem issues and affected her ability to deal with situations. Depression also played a part in her losing her job at Landmark Structures. However, his belief is that her depression has gotten worse since the motor vehicle accident.

Drs. Brian Levitt and Ronald Kaplan completed a psychological assessment of M.T., dated December 28, 2012.⁴ Dr. Holdway's notes and evidence are bolstered by The Kaplan report and Dr. Levitt's evidence. I found the Kaplan report to be thorough, clear and credible and Dr. Levitt's evidence to be compelling.

With respect to causation, Drs. Levitt and Kaplan noted that even though M.T. had work absences in the pre-motor vehicle accident period related to her mental health issues, her family physician noted that she always bounced back. Since the motor vehicle accident, M.T. has not been able to return to work and her unresolved accident-related pain conditions play a significant role in fuelling her depression and anxiety and creating more severe impairments. In addition, even though M.T. reported physical conditions in the pre-accident period, she was able to return to work despite these conditions.

Dr. Levitt, in giving evidence, noted that M.T. has been in a steady state of being "down" since the motor vehicle accident and had developed suicidal ideation. He did not diagnose M.T. with chronic pain, but rather with a pain disorder associated with a general medical condition and psychological factors. In his view, a constant loop is the feature of her condition since the motor

⁴Exhibit 8

vehicle accident. Her psychological factors ramp up her pain and pain ramps up her psychological factors (being anxiety and depression).

The Kaplan report supports Dr. Holdway's diagnosis and gives what I consider to be a clear picture of M.T.'s present condition versus her pre-accident status. I find that M.T., despite her issues, was consistently employed prior to the motor vehicle accident. I also find that M.T. had not removed herself from the workplace as RBC contends. The fact that M.T. returned to work in September 2008, despite Dr. Holdway's objections, suggests that she has always been motivated to work.

I find that M.T.'s pre-accident diagnosed depression became much worse after the motor vehicle accident. In addition, prior to the motor vehicle accident M.T. had both physical and psychological crises but always bounced back. After the motor vehicle accident, M.T. has been unable to recover.

I find that Dr. Holdway increased M.T.'s anti-depressant medication on July 31, 2009 because of her impairments related to the motor vehicle accident. I also find that the motor vehicle accident materially contributed to M.T.'s pain disorder as well as her depression and anxiety. I accept Dr. Levitt's evidence that the pain disorder and psychological impairments in combination prevent M.T. from engaging in employment.

Income Replacement Benefits

Complete Inability

The most compelling and consistent evidence regarding M.T.'s complete inability to return to work comes from her family doctor. While I do believe that Dr. Holdway is sympathetic to her case, I find that his evidence was straightforward and credible. He has known M.T. for many years and has supported her in her employment and personal life.

In February 2007 Dr. Holdway noted that M.T. was depressed with perhaps some borderline traits. However, he also noted that he had seen her with crises over the past 20 years but she had improved. Importantly, in July 2008 Dr. Holdway remarked in his notes that he had known M.T. for 24 years and that she went through crises periodically but usually she bounced back. He stated that she always held a job, but that at the time she was not fit to return to work. By September 2008, Dr. Holdway and M.T. had created a back to work plan, with Dr. Holdway noting that M.T. seemed much better and was no longer tearful. He noted that she seemed to have gotten through the worst of her crisis. He remarked on her dramatic improvement and continued her on 10 mg of the anti-depressant medication. M.T. did return to work.

Since the motor vehicle accident, Dr. Holdway increased M.T.'s anti-depressant dosage to 20 mg of Cipralext per day. He has also diagnosed her with chronic pain. He believes that M.T. is not yet back to normal and needs to stay on medication.

Drs. Levitt and Kaplan's psychological assessment was to determine if M.T. had a complete inability to engage in any employment. On testing, they found that M.T.'s pain behaviour did not seem exaggerated. Their testing suggested a significant depressive experience, including a concerning level of suicidal ideation. In addition, M.T. demonstrated a significant level of pain focus. On the MMPI-2 test, the assessors found some indication of over-reporting that may have represented confusion, reading problems and/or a cry for help. The assessors suggested reading this finding with caution because M.T.'s profile scores were consistent with what she reported to them during clinical interviewing. Further testing to assess feigning demonstrated that M.T.'s responses were genuine.

The assessors found that M.T. had a pain disorder with both a general medical condition and psychological factors. With her unresolving pain, the assessors concluded that M.T. had given up hope of recovery and her depression had become severe since the motor vehicle accident. They determined that she had developed chronic, severe, and recurrent major depression as well as an anxiety disorder. In addition, anxiety had become a significant issue since the motor vehicle accident as M.T. had become easily overwhelmed in even ordinary situations such as shopping

and family gatherings. She had become anxious being away from home for extended periods and feared novel situations and being judged by others.

The assessors noted that M.T. had serious impairment in multiple areas, including: work, daily and social functioning, as well as serious symptoms of depression and anxiety. Their prognosis for M.T. was that financial instability, housing issues, and periods of time with a lack of treatment resources had complicated her condition. They found that her chances for psychological improvement were poor and that she had sustained a permanent and serious impairment of psychological and mental functioning.

At RBC's request, orthopaedic specialist Dr. Fathi Abuzgaya examined M.T. and completed a report dated February 26, 2010.⁵ Dr. Abuzgaya found M.T. to be a fair historian who became emotional during the interview. He determined that her diagnosis was consistent with spinal strain, and soft tissue injuries to both shoulders and her right hip. From an orthopaedic point of view, there was no objective evidence of any significant musculoskeletal impairment. He determined that M.T., orthopaedically, did not suffer a substantial inability to perform her pre-accident employment.

I assign little weight to Dr. Abuzgaya's report. I find that M.T.'s impairments are primarily psychological in nature and Dr. Abuzgaya's conclusion that there is no musculoskeletal impairment preventing her from working does not adequately address the issues in this case. Both Drs. Levitt and Holdway have found that M.T.'s pain disorders are fuelled by her psychological state and I agree. It is not necessary for a musculoskeletal impairment to be present in order to find that M.T.'s psychological as well as physical impairments prevent her from working.

Dr. Muhammad Rashid completed a psychological exam of M.T. and authored a report dated February 8, 2011.⁶ Dr. Rashid administered testing which indicated that M.T. suffered from severe anxiety, depression and somatization disorder, suggesting that she suffers from mental

⁵Exhibit 10

⁶Exhibit 11

distress that is likely to affect her functional adjustment. His opinion was that M.T. had been experiencing mild to moderate mental and emotional symptoms, primarily marked by depression. In his opinion, her moderate depression would be unlikely to cause any remarkable psychosocial and environmental problems. In his opinion, her condition does not warrant any professional psychological intervention. He suggested that her distress is likely to dissipate as time progresses and as she keeps herself occupied with meaningful activities.

I also assign little weight to Dr. Rashid's report. I find that his conclusion that M.T. does not require any psychological intervention is in no way supported by the evidence. In fact, his conclusion contradicts RBC's position that M.T. was in need of psychological intervention prior to the motor vehicle accident.

I found M.T. to be a credible and straightforward witness. RBC expressed concern about M.T. feigning the severity of her impairments. In particular, RBC noted that at the hearing M.T. presented as someone who could not use her right arm. However, no clinical testing had indicated that this should be the case. While I can accept that M.T. exaggerated her condition at the hearing, I find that her pain complaints and psychological symptoms are valid and prevent her from working. All of the assessors used validity profiles in their testing to determine if M.T. was feigning and the testing indicated that she was truthful in her reports.

I agree with Drs. Levitt and Kaplan and find that M.T.'s psychological impairments, in combination with her pain experience and pain medication dependence greatly impact her stamina for employment activities. Her inability to regulate her emotions would greatly interfere with relating to clients, customers or fellow workers in any work environment. Her psychological impairments are such that she would be unable to engage in any form of employment and any attempt to work would result in further psychological deterioration.

I find that, as a result of the accident, M.T. is suffering a complete inability to engage in any employment for which she is suited by education, training or experience.

Housekeeping and Home Maintenance

M.T. must satisfy three elements in order to prove entitlement to housekeeping and home maintenance benefits. She must have performed housekeeping and home maintenance services before the accident. She must suffer a substantial inability to perform those housekeeping and home maintenance services, as a result of an accident-related impairment. She must also have incurred additional expenses for someone else to perform those services.⁷

Is M.T. entitled to a housekeeping and home maintenance benefit?

I find that M.T. is entitled to some housekeeping expenses up to 104 weeks after the accident.

It is M.T.'s uncontradicted evidence, and I find that prior to the motor vehicle accident M.T. lived with friends on Manitoulin Island and engaged in housekeeping activities while living there.

Ms. Julie Geronimo completed an occupational therapy home visit on June 21, 2010 at M.T.'s daughter's home.

Ms. Geronimo noted that M.T.'s posture was not stooped but that her upper body appeared rigid and that her right arm was also kept in a protective position (elbow flexed, with her arm positioned close to her body). M.T. also demonstrated a reduced range of motion in bilateral neck rotation, right shoulder flexion, extension and abduction, left shoulder flexion and abduction. Ms. Geronimo also noted pain at the end of each range.

In Ms. Geronimo's opinion M.T. requires housekeeping assistance because of reduced tolerance with repetitive right arm movements as well as impaired tolerance with overhead reaching. M.T. was noted to have limitations with sustained or repetitive bending, difficulty with lifting and carrying, diminished capacity with pushing and pulling, as well as reduced mobility.

⁷ *Waheed and RBC General Insurance Company* (FSCO A06-000761 and A06-000856, Oct. 26, 2007)

Ms. Geronimo recommended 4-5 hours per week of assistance for washing dishes, vacuuming, sweeping, mopping, bathroom cleaning and grocery shopping.

Ms. Geronimo's evidence was challenged by Dr. Abuzgaya's conclusion that Ms. Tynan could perform her pre-accident housekeeping. I prefer Ms. Geronimo's evidence to Dr. Abuzgaya's. I find that Ms. Geronimo's report was more thorough and took into consideration M.T.'s pain complaints that were recognized by Drs. Holdway and Levitt. I find that M.T. suffered an impairment, as a result of the accident, that resulted in a substantial inability to perform the housekeeping and home maintenance services that she normally performed before the accident.

What is the amount of the benefit to which she is entitled?

M.T.'s evidence was that after the accident she lived for 4-5 weeks in various motels. She then found accommodations in Dundas, Ontario. She had a bedroom and a bathroom and shared a kitchen and living room. She lived there from August 20, 2009 to May 1, 2010. In May 2010 M.T. purchased a motor home in Penetanguishine in a trailer park. She lived there in the summer of 2010 and moved to Collingwood in October 2010. In Collingwood she rented a room with bathroom and shared the rest of the house. She moved to another location in Collingwood where she rented a room and bathroom and shared the rest of the house. She lived there until April 2011 when she moved to Wasaga Beach. She lived there until October 2011 when she moved to Balm Beach.

M.T.'s evidence concerning the housekeeping assistance that she received after the accident is unclear and at times contradictory. M.T. lived in motels, at a trailer and at various residences in Collingwood, Wasaga Beach and Balm Beach. She stated that her friend Shannon as well as David assisted her with the housekeeping. However, the invoices for her entire housekeeping claim are from June 21, 2009 to October 1, 2011. Many of the invoices do not list a service provider and the amounts and breakdown never change. I find that the invoices are an after the fact attempt to bolster M.T.'s claim and I assign no weight to them.

I do find that M.T., because of her physical and mental impairments – which seemed to fuel each other – was in need of some housekeeping assistance.

I find that for 5 weeks after the accident, M.T. is not entitled to housekeeping assistance. She was living in motels that provide housekeeping services.

I find that M.T. is entitled to half of the amount she claimed for housekeeping, which is \$50.00 per week, for the period she lived in Dundas from August 2009 to May 2010. I accept M.T.'s oral evidence and find that David and/or her friend Shannon provided assistance to her. During this period she was only required to maintain a bedroom and bathroom and had shared duties for the kitchen. I do not believe that M.T.'s housekeeping responsibilities during this period warrant the full amount she claims.

I also find that M.T. is entitled to housekeeping assistance for the time she lived in the trailer in Penetanguishine, which is from May 2010 to October 2010. I accept M.T.'s evidence that David would go up on weekends and assist her. Again, given the size of the trailer, I find that M.T. is entitled to half the amount she claimed for housekeeping, which is \$50.00 per week.

I find that for the remainder of her housekeeping claim, M.T. is entitled to half of what she claimed, which is \$50.00 per week. During her time in Collingwood and Wasaga Beach, M.T. was once again only responsible for a room and bathroom and shared duties in the kitchen. Her responsibilities do not warrant the full amount she claims.

Attendant Care

I have already determined that M.T. sustained an impairment as a result of this motor vehicle accident. However, in considering the evidence, I find that M.T. is not entitled to an attendant care benefit.

Ms. Julie Geronimo, occupational therapist, completed a Form 1, dated June 21, 2010.⁸ The Form lists: 70 minutes per week for brushing hair; 10 minutes per week for trimming toenails; 70 minutes per week for preparing, serving and feeding meals; 10 minutes per week for changing bedding, cleaning bedroom; and 70 minutes per week for bathing and drying. Ms. Geronimo's

⁸Exhibit 4

recommendations appear to be in contrast to her report, in which she states that M.T. claimed that she was able to manage most self-care tasks but with difficulty. M.T. also claimed that she was independent with toileting and with her medications. She reported that showering was difficult and that she had, at times, gone a week without showering. For these reasons, Ms. Geronimo recommended assistive devices to promote M.T.'s independence. The recommendations included a long handled sponge bath, bath stool and a long-handled comb. The parties presented no evidence indicating that M.T. never received these devices. Ms. Geronimo's evidence was also that on follow-up visits M.T. reported that she was using the assistive devices.

The attendant care invoices M.T. submitted also do not assist me in my determination. Like the housekeeping invoices, the amounts and breakdown on the attendant care invoices never change although M.T. moved from place to place. I find that the invoices are an after-the-fact attempt to bolster M.T.'s claim and I assign no weight to them.

Although RBC did not specifically assess M.T. with respect to her attendant care claim, I find that Ms. Geronimo's report indicates that M.T. was independent with most self-care tasks. In giving evidence at this hearing, Ms. Geronimo stated that M.T. had an active range of motion which she witnessed through testing. M.T.'s neck was within normal limits and she had no severe restrictions.

I find that, while M.T. might have had difficulty performing her housekeeping tasks, she was still able to care for herself, albeit with difficulty. I find that the assistive devices provided by RBC were sufficient to address her impairments.

Special Award

If an arbitrator finds that an insurer has unreasonably withheld or delayed payments , the arbitrator, in addition to awarding the benefits and interest to which an insured person is entitled under the *Schedule* shall award a lump sum of up to 50% of the amount to which the person was entitled at the time of the award together with interest on all amounts then owing to

the insured (including unpaid interest) at the rate of 2% per month, compounded monthly, from the time the benefits first became payable under the *Schedule*.

M.T. asserts that a special award is warranted in this case because RBC improperly terminated income replacement benefits and did not provide a proper explanation for never paying attendant care benefits.

I find that a special award is not warranted in this case.

When determining that a special award is payable, the insurer's reasonableness in making its determinations is the applicable standard. An insurer merely being wrong does not oblige an insurer to pay a special award. Rather, an insurer is required to use sound and moderate judgement when determining whether to pay a benefit.⁹

RBC relied on Dr. Abuzgaya's assessment to terminate M.T.'s income replacement benefit. I agree that Dr. Abuzgaya's assessment only addressed M.T.'s condition from an orthopaedic perspective, and that a psychological assessment was warranted. However, M.T., in asserting that a special award is warranted, claims that RBC should have noted from her medical records that she was taking anti-depressant medication at the time of the motor vehicle accident. I disagree with M.T.'s position.

M.T. relied on RBC to glean from her records that her psychological condition impacted her ability to work. The applicable standard is not perfection when determining if a special award is payable. In this case, I find that it was reasonable for RBC to retain an assessor of its choosing to determine if M.T. was fit for work. At the time the income replacement benefit was terminated RBC had Dr. Holdway's and Dr. Abuzgaya's opinions. I find that it was reasonable for RBC to rely on Dr. Abuzgaya's opinion versus Dr. Holdway's, although RBC was ultimately wrong in its conclusion. In my view, Dr. Holdway was clearly sympathetic to M.T.'s case and this could have led RBC to question his impartiality.

⁹*Cowans and Motors Insurance Corporation* (FSCO A09-003237, October 15, 2010)

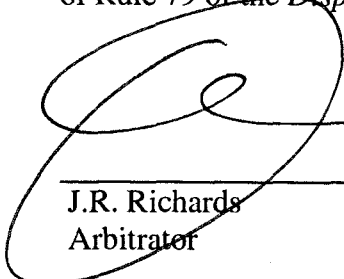
RBC eventually retained an assessor to complete a psychological assessment of M.T.. However, this was after M.T. had refused for some months to attend the requested assessment. I find that, even though the psychological assessor's conclusion about M.T. was not reasonable, RBC was entitled to rely on it in maintaining its denial of the benefit.

I find that RBC did not unreasonably terminate or withhold the income replacement benefit in this case. Therefore, no special award is payable with respect to the income replacement benefit.

I have already found that M.T. is not entitled to an attendant care benefit. Since there is no benefit on which to base a special award, I find that a special award is not payable with respect to the attendant care benefit.

EXPENSES:

The parties made no submissions on expenses. They are encouraged to resolve the issue. If they are unable to do so, they may schedule an expense hearing before me according to the provisions of Rule 79 of the *Dispute Resolution Practice Code*.



J.R. Richards
Arbitrator

February 28, 2014

Date



FSCO A11-001877

BETWEEN:

M.T.

Applicant

and

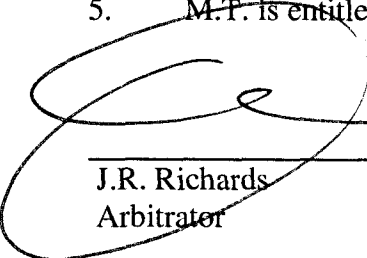
RBC GENERAL INSURANCE COMPANY

Insurer

ARBITRATION ORDER

Under section 282 of the *Insurance Act*, R.S.O. 1990, c.I.8, as amended, it is ordered that:

1. M.T. is entitled to an income replacement benefit at the rate of \$267.26 per week from March 22, 2010 to date and ongoing.
2. M.T. is entitled to housekeeping and home maintenance benefits in the amount of \$50.00 per week from August 1, 2009 to June 19, 2011.
3. M.T. is not entitled to an attendant care benefit from June 20, 2009 to June 19, 2011.
4. M.T. is not entitled to a Special Award.
5. M.T. is entitled to interest for the overdue payment of benefits.



J.R. Richards
Arbitrator

February 28, 2014

Date