

[4] Mr. Park asks this Court to overturn the LAT Decision and award him income replacement benefits. Geico asks that the appeal be dismissed with costs.

Jurisdiction and Standard of Review

[5] This court has jurisdiction over this appeal pursuant to s. 11 of the *Licence Appeal Tribunal Act, 1999*, S.O. 1999, c. 12, Sched. G. Pursuant to s. 11(3), an appeal may be made on a question of law only. The standard of review on questions of law is correctness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 37.

[6] This court may in its discretion hear a concurrent application for judicial review on alleged errors of fact or mixed fact and law not subject to statutory appeal. Such alleged errors are reviewed on a reasonableness standard: *Yatar v. TD Insurance Meloche Monnex*, 2024 SCC 8; *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1, ss. 2, 6(1). The Respondent did not object to us dealing with Mr. Park's allegations of factual errors by way of a concurrent judicial review application.

Analysis and decision:

[7] I will deal first with the issues of procedural fairness and natural justice.

[8] An administrative tribunal is required to adhere to principles of natural justice and procedural fairness. Its failure to do so can result in the decision being set aside. The determination of whether there has been a breach of the duty of procedural fairness is a question of law that is subject to correctness review on appeal: *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at para. 29.

[9] Mr. Park contends that he was denied natural justice and procedural fairness by the LAT in two ways: due to poor interpretation services at the hearing; and because the Reconsideration Decision was made by the same member of the Tribunal member who made the initial decision.

Interpreter quality:

[10] Mr. Park alleges that the quality of interpretation provided at the LAT hearing was inadequate and the Tribunal's failure to replace the interpreter resulted in a denial of procedural fairness. He argued that he was denied an opportunity to obtain the transcript to support his appeal on this issue. I address these two arguments separately below.

Quality of interpreter services at the LAT hearing:

[11] The cover page of the LAT Decision lists two Korean Language interpreters in the "Appearances" recital, but the Decision makes no other reference to interpretation, or concerns with quality of interpreter services during the hearing.

[12] Mr. Park raised this issue in his reconsideration request. The Tribunal addressed the issue in its Reconsideration Decision as follows:

[16] While not reflected in the decision, I agree the applicant raised concerns during the hearing about the quality of interpretation and requested a different interpreter. The applicant voiced these concerns on the second day of the hearing when oral submissions were made. The applicant was concerned that his words were not being interpreted accurately, and that, resultantly, I was not correctly understanding what he was saying. I am satisfied, however, that the applicant's concerns were addressed at the hearing to his satisfaction. As such, the Tribunal was not required to make any orders, and this is why the decision is silent on this procedural matter.

[17] I find the applicant's argument is hampered because he failed to produce a copy of the hearing transcript to substantiate that his concerns and requests were ignored. In my view, the Tribunal was responsive to, and engaged with, the applicant's complaints. When the applicant voiced his concerns about interpretation and requested a different interpreter, I offered—as an alternative to adjourning the proceeding to obtain a new interpreter—to recount my understanding of the applicant's submissions back through the interpreter to affirm whether the applicant's submissions had been accurately conveyed and understood. Through this process, the applicant subsequently confirmed—partway through and at the conclusion of his oral hearing submissions—that his arguments had been accurately interpreted.

[18] While the applicant's reconsideration request submissions broadly indicate that paragraphs 25, 26, 27, and 28 of the decision demonstrate the Tribunal did not understand what he said, he fails to pinpoint what aspects of these paragraphs he relies on to show that poor quality interpretation led to confusion about what he said during his oral submissions.

[19] I am therefore satisfied that the applicant's complaints about interpretation, and his request to replace the interpreter, were addressed in a procedurally fair manner.

[13] Mr. Park filed no transcript in support of this ground of appeal. In his submissions to this Court, Mr. Park did not dispute that the Tribunal took the steps described in the Reconsideration decision to ensure that his submissions were understood.

[14] I find no denial of procedural fairness or natural justice on this issue.

Availability of Transcript to Applicant:

[15] In his submissions to this Court, Mr. Park contended that the Respondent Geico prevented him from obtaining the transcript of the Tribunal hearing.

[16] This Court reviewed with Mr. Park the procedural steps taken in the Divisional Court appeal process related to his transcript request. On March 24, 2025, the panel scheduled to hear this appeal granted an adjournment of three months to allow Mr. Park to obtain a transcript of the

Tribunal hearing. A case conference was held with Justice O'Brien immediately after the adjournment was granted. Justice O'Brien ordered a timeline for Mr. Park obtaining and filing the transcript. She also set out the steps for him to take in order to comply with that timeline.

[17] On April 11, 2025, Mr. Park sent an email to the Divisional Court, addressed to Justice O'Brien in which he stated, "I would like to proceed with the hearing without transcripts."

[18] Having decided to proceed with his appeal without the transcript, Mr. Park is precluded from arguing this issue as a ground of appeal.

[19] I find no denial of procedural fairness to Mr. Park on the interpretation issue.

Same reconsideration decision-maker:

[20] In this case, both the LAT Decision and the Reconsideration Decision were made by the same Tribunal member. Mr. Park argues that he was denied procedural fairness because it is "common sense" that any decision-maker would "lose face" and therefore lack an open mind if they truly reconsidered their own previous decision, as is required in any reconsideration. Mr. Park cited no case law or other authority on this point.

[21] The Respondent argues that this issue has been decided by this court and this ground of appeal should be dismissed.

[22] Mr. Park cited no cases to the contrary but argued that the Court should not be bound by precedent. He submits it should consider each case on its merits.

[23] The Divisional Court considered the issue of whether an adjudicator reconsidering their own decision is a denial of procedural fairness in *Warren v. Licence Appeal Tribunal*, 2022 ONSC 3741 (Div. Ct.).

[24] *Warren* considered the basis and rationale underlying the reconsideration provisions of the *Licence Appeal Tribunal Rules*. It described reconsideration as "an internal tribunal review mechanism", at para 12. At paras. 12-17, it explained the statutory basis for the reconsideration mechanism and its importance as a matter of efficiency in the context of the LAT adjudicative mandate and volumes of appeals. The Divisional Court concluded on this issue, at paragraph 22:

Having members reconsider their own decisions contributes to the goal of efficiency and expeditiousness since the adjudicators know the file and are therefore best placed to assess the issues raised in a reconsideration request. Reconsideration under the LAT Rules is not a hearing de novo or an appeal: it is a corrective mechanism which allows an adjudicator to correct overriding errors or fundamental evidentiary concerns.

[25] In his appeal Mr. Park asks, as did the appellant in *Warren*, for this Court to find that the reconsideration being conducted by the same Tribunal member denied him procedural fairness. The reasons and analysis of the court in *Warren* have determined this issue.

[26] In conclusion on the issues of procedural fairness and natural justice, I find no errors of law on the appeal grounds raised by Mr. Park.

Alleged unreasonableness in factual and evidentiary findings:

[27] Mr. Park argues that the Tribunal at first instance erred: (i) in failing to consider his MRI test results and other medical documentation as evidence of his inability to work since the accident; (ii) in stating his income for 2020; (iii) in concluding that he was able to work; and (iv) in finding that he was in California in 2020.

[28] Mr. Park also submits that the Tribunal erred by not permitting him to file further evidence on the reconsideration.

[29] I note that Mr. Park raised each of these arguments in his request for reconsideration. Each was considered by the Tribunal in the Reconsideration Decision.

[30] With respect to the Tribunal's consideration of the evidence, I find that with the exception of Mr. Park's 2020 income, its findings and conclusions were supported by the evidence, and were reviewed in the Reconsideration Decision. I find no unreasonableness in the Tribunal's factual findings nor in the inferences drawn from those findings and the conclusions reached.

[31] With respect to the stipulation of Mr. Park's income for 2020, the Tribunal agreed at paragraph 26 of the Reconsideration Decision that it had misstated Mr. Park's income as \$21,969.00 for that year, rather than his reassessed income of \$35,769.00. Having acknowledged its mistake, the Tribunal found the error to be immaterial as its correction did not affect its finding that Mr. Park was self-employed at the time of the accident.

[32] Mr. Park also argues on appeal that the Tribunal mischaracterized him as the sole shareholder of his company, Total Accident Paralegal. In his reconsideration submissions Mr. Park referenced a 2017 ownership transfer document that showed a second owner of his company. The Tribunal refused to accept this new evidence on reconsideration because it had been available to Mr. Park at the original hearing. The Tribunal nonetheless considered the significance of the 2017 document, finding that its admission would "not change the fact that, several years later the applicant reported himself as the sole shareholder of Total Accident Paralegal in 2021".

[33] Ultimately, the Tribunal found that the car accident did not render Mr. Park incapable of performing the essential duties of his pre-accident employment or self-employment. There is nothing unreasonable in that finding. I would therefore not interfere with the Tribunal's decision.

[34] This Court heard clearly in Mr. Park's appeal submissions that he continues to live with adverse health consequences of the accident and that it has affected his life in multiple ways. With respect to his challenges to the Tribunal's decision, however, I find no error of law. Nor were any of the Tribunal's findings of fact or mixed fact and law unreasonable in the context of the proceedings before it.

Disposition

[35] For the reasons given, the appeal is dismissed.

[36] Geico seeks its costs of the appeal. Given Mr. Park’s financial circumstances, costs are fixed at \$1,000.

McSweeney J.

I agree

Sachs J.

I agree

Faieta J.

Released: July 24, 2025

CITATION: Park v. Geico, 2025 ONSC 4282
DIVISIONAL COURT FILE NO.: 017/25
DATE: 20250724

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

CHUNG JIN PARK

Appellant

– and –

GEICO INSURANCE COMPANY

Respondent

REASONS FOR DECISION

MCSWEENEY J.

Released: July 24, 2025