

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-14-119**

PANEL: **Ms Jacqueline Freedman, Chair
Dr. Arnold Kapitz
Ms Sandra Oakley**

APPEARANCES: **The Appellant, [text deleted], appeared on her own behalf;
Manitoba Public Insurance Corporation (“MPIC”) was
represented by Ms Ashley Korsunsky.**

HEARING DATE: **March 26, 2019**

ISSUE(S): **Whether the Appellant is entitled to Personal Injury
Protection Plan benefits for her right rotator cuff tear.**

RELEVANT SECTIONS: **Subsection 70(1) of The Manitoba Public Insurance
Corporation Act (“MPIC Act”).**

Reasons For Decision

Background:

The Appellant, [text deleted], was a passenger in a vehicle that was rear-ended by another vehicle on November 20, 2012 (the “MVA”). The Appellant suffered various injuries as a result of the MVA and received certain treatments pursuant to the Personal Injury Protection Plan (“PIPP”) provisions of the MPIC Act, including physiotherapy and chiropractic treatment.

The Appellant contacted her case manager in late 2013 to request PIPP coverage related to her right rotator cuff tear. The case manager considered the request of the Appellant and issued a decision dated January 6, 2014, which states as follows:

The medical information on file has been reviewed by our Health Care Services Team. Based on this review there is insufficient evidence to support a causal relationship between your current signs/symptoms of a suspected right rotator cuff tear and symptoms involving the neck, shoulder and back and the motor vehicle accident of November 20, 2012. Therefore, there is no entitlement to funding under the Personal Injury Protection Plan (PIPP).

The Appellant disagreed with the decision of the case manager and filed an Application for Review. The Internal Review Officer considered the decision of the case manager, as well as additional medical information received to the file, and issued a decision which upheld the decision of the case manager. The Internal Review decision, dated May 27, 2014, provides as follows:

I find the medical consultant's opinion that rotator cuff injuries do not typically occur as a result of rear-end accidents compelling and determinative of the issue before me.

Given the above, I must uphold the case manager's decision that your right rotator cuff injury is not causally related to your motor vehicle accident of November 20, 2012, and, therefore, you are not entitled to PIPP benefits in relation to same.

The Appellant disagreed with the decision of the Internal Review Officer and filed this appeal with the Commission.

Issue:

The issue which requires determination on this appeal is whether the Appellant is entitled to PIPP benefits for her right rotator cuff tear.

Decision:

For the reasons set out below, the panel finds that the Appellant has not met the onus of establishing, on a balance of probabilities, that she is entitled to PIPP benefits for her right rotator cuff tear.

Evidence and Submission for the Appellant:**Evidence:**

The Appellant testified at the appeal hearing. She also called as witnesses her two eldest sons, [Appellant's son #1], age 16, and [Appellant's son #2], age 18.

The Appellant described that the MVA of November 20, 2012, occurred in [text deleted], while the Appellant and her family were there visiting her mother. The Appellant said that the day after the accident, she began to feel significant pain in her back and right shoulder, so she went to the hospital. She had a red mark, like a rash, over her shoulder and collarbone, and her shoulder felt like it was burning. Because the Appellant was still resident in [text deleted] at the time, and because she had not arrived at the hospital by ambulance, she said the hospital would not do an x-ray.

Immediately after the MVA, the Appellant remained in [text deleted], residing with her mother. In December 2012, the Appellant and her family decided not to return to [text deleted], and to officially move (i.e. change their residence) to [text deleted]. Once the Appellant made this decision, she was able to apply for a [text deleted] health card, and also to apply for a family physician. Because she had previously lived in [text deleted], she requested a doctor who had previously been her family physician, but the waiting list was about six months long. When she finally got an appointment with him, she pursued a diagnosis of her right shoulder pain. Her doctor sent her for a CT scan and an MRI, which revealed that she had a right rotator cuff tear.

In the intervening time, starting in February, 2013, she has pursued physiotherapy and chiropractic treatment, but it didn't help, and in fact the physiotherapy treatment made it worse. This is because while she was being treated by the physiotherapist, the rotator cuff tear had not yet been diagnosed,

and so the physiotherapist was not directing the treatment at the correct injury. After the diagnosis, MPIC did extend the physiotherapy coverage somewhat, so the physiotherapist did instruct her on certain home exercises that she could do. The Appellant noted that because the physiotherapist is not classified as a doctor, he was not able to note that her rotator cuff tear was caused by the MVA.

The Appellant's son [Appellant's son #1] was in the vehicle during the MVA, and he testified regarding the circumstances of the MVA. He described how the vehicle was rear-ended several times. He went to the hospital the day after the MVA with his mother. He suffered from neck pain, and he remembered that his mother complained of shoulder pain. He said that after the MVA, his mother had difficulty doing things around the house, and he would help out at home. As well, she had to get her sister to come help with things in the house.

The Appellant's eldest son [Appellant's son #2] also testified. He was not present in the vehicle at the time of the MVA, but he did remember that he and [Appellant's son #1] had to help his mother after the MVA, because she was sore and had difficulty doing things at home. They did most of the housework.

Submission:

The Appellant noted that she has been working hard all of her life, since she was 13 years old. She does not like going to doctors; she only goes as a last resort when the pain becomes so significant that she can't deal with it anymore. She has never before suffered from pain this significant as the pain in her shoulder. She described it as the worst pain she's ever had, greater even than the pain of childbirth (and she pointed out that she has had four children).

After the MVA, the Appellant was in so much pain that she even had difficulty carrying her one-year-old daughter. She tried doing what the physiotherapist said, but at physiotherapy they were treating her injury as tendinitis, and it wasn't helping. She still gets a burning sensation in her right shoulder when she does excessive work. She mostly uses her left arm when she has to do significant work, because that is how she had to compensate and she got used to it. She also sees a massage therapist now, and that is helpful. She doesn't like to take pills, and instead uses Chinese oils to ease any pain.

The Appellant pointed out that she has worked as a housekeeper for a very long time and is certain that her right rotator cuff tear was caused by the accident, as the pain hit her the day after the MVA. She noted, in reply to MPIC's submission, that if she had felt that her shoulder pain had been caused by her work, she could have gone to Worker's Compensation. She is aware that she qualifies for that coverage. She loves her housekeeping job and would like to go back to that job, but she couldn't pursue it due to the pain in her shoulder. She said she had to quit the [text deleted] job in order to be able to look after her kids.

She has been living on her own since she was [text deleted] and would prefer to try and make her own way and not rely on other people. She has never been in an accident before, and was unaware as to how things progress. She had to be able to raise her kids on her own, without many resources.

In reply to MPIC's submission, the Appellant pointed out that in [text deleted], chiropractors and physiotherapists are not classified as doctors, and could not comment on the causation of her rotator cuff tear. She also noted that the damages to the vehicle in the MVA were greater than they appeared on the outside, and in addition there was a lot of damage to the car that hit her vehicle.

Evidence and Submission for MPIC:Evidence:

Counsel for MPIC did not call any witnesses, but did question the Appellant and her son [Appellant's son #1] on cross-examination. Counsel questioned the Appellant regarding the timing of her move to [text deleted]. The Appellant said that her family made the decision to stay in [text deleted] in December, 2012, when they were visiting her mother; she thought it was beautiful in [text deleted] and they ended up staying. As well, her husband saw opportunities in the lumber business. Initially, they stayed with her mother and then they got their own place. When they moved into their own apartment, on [text deleted], her husband [text deleted] became the Superintendent there.

Counsel questioned the Appellant regarding her visit to the hospital the day after the MVA. When questioned regarding what symptoms she reported at that visit, the Appellant responded that she reported to the triage nurse and also to the Emergency Room doctor that she had redness around her collarbone and also that her shoulder/arm felt like it was on fire. She said that she took off her shirt to show them the redness and she told them she was in a lot of pain and had difficulty lifting her arm. She said that the doctor tested her range of motion and gave her Tylenol for the pain.

The Appellant confirmed that in the months following the MVA, she was able to provide childcare to her youngest children (at the time of the MVA, her daughter was age 1, and her youngest son was age 2). This care would have involved things like a lot of lifting, pushing a stroller, and bathing. Although she had a spouse at the time, he was not that involved, and it was like being a single parent. In February, 2013, the Appellant started a job at the [text deleted] as a housekeeper. She applied for it about a week prior to the start date. She agreed that she knew what the demands of the position would be when she applied for it, as she had worked as a housekeeper for 13 years.

She said that she thought she would be well enough to do it. The Appellant also did housekeeping work at home, things like vacuuming, doing dishes and washing floors. She confirmed that she was right-handed.

Counsel questioned the Appellant regarding her husband's Superintendent job and whether it encompassed housekeeping duties. The Appellant agreed that it did, and that she would sometimes help with those duties, like sweeping and taking lint from the dryers, but said that she could not do the mopping or the shoveling, as these duties were too heavy for her. She said that there were a lot of duties that her husband did on his own; he was responsible for apartment and household cleaning.

When questioned regarding whether she went back to the hospital or sought any medical treatment after the first visit to the Emergency Room, the Appellant confirmed that she did not seek any further treatment in December, 2012 or in January, 2013. She agreed that she felt better after some physiotherapy treatment in March, 2013.

The Appellant was asked to describe the circumstances of the MVA. The vehicle they were driving in was a truck. She and her husband were in the front seat, with her son [Appellant's son #1] in between them. She said that when the car hit them from behind, she stretched her right arm out in front of her, towards the dashboard, and put her left arm out to the side, to hold [Appellant's son #1]. She did not anticipate the MVA or know that they were about to get hit. Although her husband kept the passenger airbag turned off, the driver's side air bag did not deploy. Counsel referred to photographs taken of the damage to the vehicle which indicate \$1,999.81 in damage; the Appellant confirmed that this was probably correct.

In response to a question from the panel, the Appellant noted that she has not had surgery to repair her rotator cuff tear; she was told that she was too young for the surgery. She also said that when the injury first happened, her sister came to help around the house because her husband did not help with housework at home or with taking care of the two younger children.

Counsel for MPIC confirmed with the Appellant's son [text deleted] that he was nine years old at the time of the MVA. She asked him if he recalled exactly when the Appellant's sister came to help her, whether it was months or perhaps even years after the MVA. He responded that he could not remember exactly when it was, but he did recall that his mother would say her shoulder was hurting and she would ask him to help her at home.

Submission:

Counsel for MPIC submitted that the issue in this appeal is whether the Appellant is entitled to PIPP benefits for her right rotator cuff tear. Counsel noted that the Internal Review decision found that the rotator cuff tear was not caused by the MVA, and that the Appellant bears the onus, on a balance of probabilities, of establishing that that decision is incorrect. It is MPIC's submission that the Appellant has failed to meet the onus placed on her. Counsel submitted that there is no opinion from any healthcare provider that supports the Appellant's position that the rotator cuff tear was caused by the MVA. Rather, the only medical opinions on file are from MPIC's Health Care Services ("HCS") consultant, who provided several reviews, which all came to the conclusion that the rotator cuff tear was not caused by the MVA.

The HCS consultant's opinion is based on the reasoning that a rear end collision is not consistent with a rotator cuff injury or tear. Counsel referred in particular to a report dated January 2, 2014, which states the consultant's "understanding that rotator cuff injury is not a probable sequelae of

a rear end collision”. The consultant expanded upon this further in his report dated January 14, 2019, as follows:

The shoulder joint (i.e., glenohumeral joint) is not exposed to a transfer of force that would expose the rotator cuff (important group of muscles/tendons supporting the glenohumeral joint) to challenges leading to dysfunction or disruption in the majority of rear end collisions. ...

Acute rotator cuff tears are painful and most often result in a loss of shoulder range of motion and weakness. When assessing the shoulder, following an acute rotator cuff tear, provocative maneuvers, used to assess the rotator cuff status, are often painful. Evidence obtained from the claim file indicates [the Appellant]’s assessments, performed shortly after the incident in question, did not identify these clinical findings.

...

... In general, a properly worn seat belt does not exert pressure directly over the shoulder joint per se. ...

Counsel referred to the Emergency Room report of November 21, 2012. She pointed out that the HCS consultant reviewed that report and did not identify the clinical findings associated with rotator cuff injury or tear. She noted that the only diagnosis of the Appellant made by the Emergency Room physician was muscle strain.

The HCS consultant also referred to the photographs of the vehicle damage in his report of January 14, 2019. Counsel noted that the vehicle is a fairly large truck with an extended cab. She submitted that the damage appears to be quite minimal, with no significant structural damage, and the passenger side appears to be intact. The consultant stated in his report:

... Larger vehicles will absorb more force than smaller vehicles, in most situations, and based on this less force would be transferred to an occupant of a larger vehicle. Since the photographs reflect minor rear end damage, in my opinion, it is not medically probable the occupants of the vehicle were exposed to a transfer of force, to the extent a significant musculoskeletal injury (i.e., rotator cuff tear) would occur. ...

Counsel argued that the onus is on the Appellant to prove her case on a balance of probabilities, and it cannot be said that she has done that in this case. When considering all of the evidence, it

should be noted that the case manager recorded a file note on November 30, 2012, in which the Appellant advised as follows: “She is still able to lift the children just once in a while her pain will get worse. She is thinking about seeking treatment”. The Appellant did not seek any treatment until February, 2013, but during this intervening time she was performing housekeeping duties in her apartment, and she testified that her husband did not provide much assistance. She was also helping her husband with his duties as Superintendent. She did not contact MPIC for any help or treatment.

The HCS consultant’s report of January 2, 2014, states that “The most common cause of rotator cuff tendinopathy is overuse”. The report concluded that it is possible that the symptoms that the Appellant reported to her physiotherapist in February, 2013, stemmed from her housekeeping tasks (in assisting her husband with his Superintendent duties), combined with caring for her children. Counsel pointed out that in addition, in February, 2013, the Appellant obtained employment with the [text deleted], working 40 hours a week doing housekeeping duties. This is a physically demanding job that includes many, varied tasks. According to the Canadian Centre for Occupational Health and Safety, one of the risk factors for repetitive motion injuries in housekeeping is “forceful upper limb motions in awkward positions which are a high risk for neck or shoulder and arm injuries”. The HCS consultant’s report of January 14, 2019, states that the most common causes of rotator cuff tears includes repetitive use. Counsel argued that while the Commission is not required to determine that the Appellant’s rotator cuff injury was as a result of her work as a housekeeper, it is reasonable to consider that she has 15 years of work history in this demanding job where repetitive motion injuries are seen.

Counsel submitted that the panel is required to consider if there is sufficient evidence, on a balance of probabilities, to establish whether the Appellant’s rotator cuff injury was caused by the MVA.

She argued that there is a lack of medical evidence supporting the Appellant's position. Here, there was a rear end collision in what appeared to be a solid looking, long box, extended truck which suffered limited damage. Beyond the initial hospital visit, the Appellant did not seek medical attention for two months. After initially speaking to the case manager in November, 2012, she did not follow up, and in fact she told him she did not think she needed treatment. Rather, she was providing childcare to her children and was able to carry on with her activities of daily living, assist her husband with his Superintendent duties, and apply for and accept a housekeeping job. Counsel submitted that when you take all of that into account and weigh it against the Appellant's position, which is not supported by any medical opinion, there is no evidence to support that the rotator cuff injury was caused by the MVA.

Discussion:

The onus is on the Appellant to show, on a balance of probabilities, that she is entitled to PIPP benefits for her right rotator cuff tear. The relevant provisions of the MPIC Act are as follows:

Definitions

70(1) In this Part,

"accident" means any event in which bodily injury is caused by an automobile;

"bodily injury caused by an automobile" means any bodily injury caused by an automobile, by the use of an automobile, or by a load, including bodily injury caused by a trailer used with an automobile ...

...

Application of Part 2

71(1) This Part applies to any bodily injury suffered by a victim in an accident that occurs on or after March 1, 1994.

Accordingly, in order to be entitled to PIPP benefits, the Appellant needs to show that her right rotator cuff tear was caused by the MVA. There is no dispute that the Appellant was diagnosed

with a right rotator cuff tear, initially by ultrasound in June, 2013, and then by MRI dated January 30, 2014. The dispute is whether the tear was caused by the MVA.

It is the Appellant's position that her right rotator cuff tear was caused by the MVA. She testified that she went to the Emergency Room the day following the MVA, complaining of acute pain in her right shoulder, difficulty moving her arm and redness around her neck and shoulder area. She said that she had trouble lifting her young children, and that she had to have her two older sons help around the house. They also testified to this. She also said that she had to have her sister come and help out around the house due to her difficulty with her right shoulder. As well, although she did apply for and obtain work as a housekeeper at the [text deleted], she said she had to quit that job due to her shoulder pain.

The Appellant testified to the delay in obtaining a family physician after her move to [text deleted]. However, she also testified that she didn't feel that she needed to seek further medical attention until February, 2013, when she went to see a physiotherapist. The date of the initial visit to the physiotherapist was February 7, 2013, approximately two and a half months after the MVA. Her evidence also was that during the month of January, 2013, her husband began working as a Superintendent, and she assisted him with some of the housekeeping duties associated with that job. As well, she acknowledged that she did perform some childcare duties and some of the housekeeping duties at home during this time. She also testified that she had been working as a housekeeper for 15 years.

In her testimony, the Appellant said that, as far as she was aware, her [province] physiotherapist and chiropractor were not in a position to comment on the cause of her rotator cuff tear, and in fact there are no reports from them containing such comments. Her family physician, [text deleted],

did provide two medical reports to MPIC, but these did not comment expressly on causation. The first report, dated November 1, 2013, stated as follows:

We are responding to your request for updated information on our patient.

Although the patient listed above had the accident in November 2012, she was able to become a (sic) patient at our clinic in May 2013, with her 1st appointment on May 27, 2013.

At that time, she was still complaining of ongoing right shoulder pain that she rated 5/10. It continued to be quite bothersome to her, and she had definite pain during physical examination with abduction and palpation over her shoulder joint. At that time, she was already going to physio, and had previously had massage and ultrasound treatments on her shoulder. Ultrasound done June 3, 2013 (attached) showed a small partial (sic) tear at the right supraspinatus tendon and more physio was recommended. We saw her again for an updated assessment at the beginning of October 2013, and ultrasound at that time showed the tear had healed, but that she still has some mild or minimal tendinitis involving the tendon. At this time, she is obviously improving significantly with her physio treatment, and we recommend that she attend physio for 6-8 more weeks for the tendinitis. At that time her shoulder pain should be nearly resolved. We can suggest at this time that the patient should not be left with any injuries from the accident, as she seems to be improving clinically and on ultrasound.

Im not sure if the patient was seen elsewhere for this shoulder injury prior to us seeing her in May 2013, but if so, they may be able to provide you with additional information.

Following receipt of the MRI which confirmed the rotator cuff tear, [Appellant's family physician] provided a follow-up report to MPIC dated February 6, 2014, which stated as follows:

Summary: Please see attached for recent MRI results for our patient [text deleted]. She does still have a right sided partial tendon tear in her shoulder which requires an active treatment of physiotherapy. Please consider this when looking at her 60 day appeal.

Based on these reports, it appears that [Appellant's family physician] supported the Appellant's use of physiotherapy as treatment for her shoulder pain. However, in neither report did he expressly say that her rotator cuff tear was caused by the MVA. In contrast to this, MPIC's HCS consultant expressly stated as follows in his report dated January 2, 2014:

... it is my opinion the medical evidence does not support a cause and affect relationship between the incident in question and the suspected right rotator cuff tear
...

In that report, the HCS consultant stated that he based his opinion on numerous factors, as follows:

- ...
- The understanding that rotator cuff injury is not a probable sequelae of a rear end collision;
 - Information obtained from the [hospital] outlining the symptoms [the Appellant] reported on November 21, 2012 and her clinical findings (i.e., right shoulder, arm, and upper back pain; tenderness over the right trapezius to medial scapular region; findings in keeping with muscle strain);
 - Information indicating [the Appellant] did not receive services from a health care professional from November 21, 2012 to February 7, 2013;
 - Information obtained from Physiotherapy Health and Wellness outlining the results of assessments and treatment [the Appellant] received from February 7, 2013 to December 2, 2013. ... The most common cause of rotator cuff tendinopathy is overuse and based on the demands of the Superintendent (sic) position it is possible the symptoms [the Appellant] reported in February 2013 stem from her work duties combined with caring for her children.
- ...

In reports dated February 3, 2014, and March 10, 2014, the HCS consultant reviewed new medical information received to the Appellant's file, including the Appellant's pre-MVA medical history and the MRI report dated January 30, 2014. The new information did not cause the consultant to change his previous opinion that the Appellant's rotator cuff tear was not caused by the MVA.

The HCS consultant expanded further upon his earlier opinion in his report of January 14, 2019.

In that report, the consultant was asked to comment upon the Appellant's presentation at the Emergency Room with right shoulder pain. He stated as follows:

Shoulder pain in the absence of ... clinical findings suggestive of a shoulder injury could stem from structures around the neck, shoulder girdle and upper back. The presence of pain would not confirm a rotator cuff injury. Rotator cuff pathology can produce pain and in most cases clinical findings in keeping with a rotator cuff problem.

Information obtained from [hospital] indicates [the Appellant] reported experiencing right shoulder, arm and mid back pain at the triage station. When she was actually examined tenderness was noted over the right trapezius and medial scapula (not

clinical findings suggestive of rotator cuff injury). These tender structures could cause shoulder pain.

As noted above, he also stated:

Acute rotator cuff tears are painful and most often result in a loss of shoulder range of motion and weakness. When assessing the shoulder, following an acute rotator cuff tear, provocative maneuvers, used to assess the rotator cuff status, are often painful. Evidence obtained from the claim file indicates [the Appellant's] assessments, performed shortly after the incident in question, did not identify these clinical findings.

The diagnosis made by the Emergency Room physician in the Emergency Room report dated November 21, 2012, was "muscle strain".

The HCS consultant was also asked to comment regarding the Appellant's indication that she suffered bruising or a rash from her seat belt on her right shoulder. He was asked whether this would result in a change to his previous opinion that the Appellant's right rotator cuff tear was not causally related to the MVA. The consultant stated in the report as follows:

No. ... In general, a properly worn seat belt does not exert pressure directly over the shoulder joint per se. The shoulder strap portion of the seat belt crosses over the chest and clavicular region and based on this the actual glenohumeral joint, which the rotator cuff supports, would not be exposed to direct trauma when a seat belt engages, in all probability.

In the January 14, 2019, report, the consultant noted that he had reviewed the photographs of the vehicle that the Appellant was a passenger in at the time of the MVA. He stated that "The pictures do not lead me to change the opinion previously rendered relating to causation". He stated further that:

... Since the photographs reflect minor rear end damage, in my opinion, it is not medically probable the occupants of the vehicle were exposed to a transfer of force, to the extent a significant musculoskeletal injury (i.e., rotator cuff tear) would occur. ...

The HCS consultant also expanded on his earlier opinion that a rotator cuff injury is not a probable sequelae of a rear end collision, as follows:

The shoulder joint (i.e., glenohumeral joint) is not exposed to a transfer of force that would expose the rotator cuff (important group of muscles/tendons supporting the glenohumeral joint) to challenges leading to dysfunction or disruption in the majority of rear end collisions. The rotator cuff could be exposed to forces, which could adversely affect the tendinous portion, with head on collisions and forceful bracing with the arms on the steering wheel or dashboard to absorb the impact. If the transfer of force during a rear end collision was significant (sufficient force to break the supports of the driver seat leading to a sudden decline in the seat) then traction forces through the shoulder could be sufficient to expose the rotator cuff, of the driver, to forces that could adversely affect the rotator cuff tendon (driver holding onto the steering wheel as the seat suddenly declines). Based on my understanding of the circumstances surrounding the incident in question [the Appellant] was not exposed to this level of force during the November 20, 2012 incident and she was a front seat passenger. ...

The Appellant testified that she reached her right arm forward towards the dashboard when the MVA occurred; however, she did not say that she actually braced her arm on the dashboard or that her shoulder absorbed the impact of the rear end collision. Further, there is no mention of this in any of the medical reports or chart notes of her medical providers. Therefore, we are not able to conclude that the Appellant's right rotator cuff was exposed to the type of "forceful bracing" referred to by the HCS consultant in the paragraph above.

The Appellant testified in a clear and forthright manner. The panel accepts the testimony of the Appellant that she is suffering from pain in her right shoulder. We do understand the Appellant's conviction that the MVA was the cause of her right rotator cuff tear; however, there is no medical evidence supporting her position. Rather, the only medical evidence commenting directly on causation is from MPIC's HCS consultant, and he is of the opinion that her right rotator cuff tear was not caused by the MVA. Further, the Appellant did not seek further medical attention for two and a half months after the MVA, and during that time she looked after her young children at home, did some housekeeping duties at home (assisted by her two older sons and her sister),

assisted her husband with his Superintendent duties, and as well sought and obtained a housekeeping job with the [text deleted].

After a careful review of all the reports and documentary evidence filed in connection with this appeal and after careful consideration of the testimony of the Appellant and of the submissions of the Appellant and counsel for MPIC and taking into account the provisions of the relevant legislation, the panel finds that the Appellant has not met the onus of establishing, on a balance of probabilities, a causal connection between the Appellant's right rotator cuff tear and the MVA. Consequently, the Appellant is not entitled to PIPP benefits with respect to her right rotator cuff tear.

Disposition:

Accordingly, the Appellant's appeal is dismissed and the decision of the Internal Review Officer of May 27, 2014, is upheld.

Dated at Winnipeg this 12th day of April, 2019.

JACQUELINE FREEDMAN

ARNOLD KAPITZ

SANDRA OAKLEY