



2015-908

Representative: Steven Woodman, Bureau of Pensions Advocates

Decision No: 100002169908

Decision Type: Federal Court Order to Rehear Reconsideration of Entitlement Appeal

Location of Hearing: Charlottetown, Prince Edward Island

Date of Decision: 5 February 2015

The Entitlement Reconsideration Panel decides:

CHRONIC DYSTHYMIA

Entitlement granted in the amount of five-fifths for service in the Canadian Armed Forces, Regular Force, with effect from date of this decision.

Section 45, *Canadian Forces Members and Veterans Re-establishment and Compensation Act*

Before:	Thomas W. Jarmyn	Presiding Member
	John Morrison	Member
	R. Malo	Member

Reasons delivered by: _____
Thomas W. Jarmyn

INTRODUCTION

This is a rehearing of an application for reconsideration of a decision under Section 45 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* with respect to the condition of Chronic Dysthymia. This rehearing is being carried out pursuant to an order of the Federal Court of Appeal dated 30 September 2014.

In paragraph 32 of its decision Justice Sharlow of the Federal Court of Appeal wrote:

I conclude that the only conclusion reasonably open to the Appeal Panel on the evidence is that her chronic dysthymia resulted from her military service and that there is no evidence of any other cause for her condition. . . .

ANALYSIS/REASONS

As a result of this finding the Appeal Panel's conclusion that the claimed condition was only partially attributable to the Applicant's military service is therefore an error of law. As a result it is necessary to reconsider the application for entitlement on its merits.

In paragraph 33 of its decision the Federal Court gave direction "to amend the initial decision of the Appeal Panel pursuant to section 32 of the VRABA on the basis that the Applicant's disability is the result of a 'service-related injury or disease' as defined in section 2 of the *Compensation Act*." Giving effect to this direction and the conclusion in paragraph 32 that "there is no evidence of any other cause for her condition"

this Panel finds that full entitlement with respect to the claimed condition of Chronic Dysthymia is appropriate.

DECISION

The Entitlement Reconsideration Panel awards full entitlement under Section 45 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* with respect to the claimed condition of Chronic Dysthymia effective 5 February 2015.

Applicable Statutes:

Pension Act, [R.S.C. 1970, c. P-7, s. 1; R.S.C. 1985, c. P-6, s. 1.]

Veterans Review and Appeal Board Act, [S.C. 1987, c. 25, s. 1; R.S.C. 1985, c. 20 (3rd Supp.), s. 1; S.C. 1994-95, c. 18, s. 1; SI/95-108.]

Section 3
Section 31
Section 39
Section 32

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