



COMMONWEALTH DEPARTMENT OF
VETERANS' AFFAIRS

Telephone: REDACTED
Toll Free: 1300 550 461

File Reference: FRA0173-01

Military Compensation and
Rehabilitation Service
Dept of Veterans' Affairs
Level 19
PO Box 21
Woden ACT 2606

Monday, 5 November 2001

Mr Graeme Frazer
REDACTED
REDACTED TAS 7005

Dear Mr Frazer

SAFETY, REHABILITATION AND COMPENSATION ACT 1988 (SRCA)

I refer to my letter dated 23 October 2001 and advise that I am currently reviewing your request for reconsideration.

In reviewing your claim I am required to make an assessment "on the balance of probabilities". This in turn requires me to decide whether it was more likely than not that your military employment has caused your claimed conditions. The allegations that you have made of bastardisation and harassment are clearly serious. The difficulty I have is that at present there is no evidence on your claim file to corroborate your allegations. I note also that there are no records of any harassment or bastardisation contained in any of your medical or personnel records.

I therefore would like to give you the opportunity to provide any corroborative evidence to support your claim. Such evidence might include statements from witnesses to any of the alleged bastardisation/harassment that you allege you suffered during your military training. I note your willingness to undertake hypnosis or a polygraph, but this is not evidence that I could attach any weight to.

Another issue that I must determine is the date of your injury. The SRCA requires that I determine the eligibility of your claim under the legislation applying at the time of your injury. In this case, your claim could be determined under the Commonwealth Employees' Compensation Act 1930 (the 1930 Act). Alternatively, if your injury occurred post 25 May 1971 the applicable legislation would be the Compensation (Commonwealth Government Employees') Act 1971 (the 1971 Act).



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Under both the 1930 Act and the 1971 Act, Notices of Claim for Compensation are required to be lodged as soon as practicable after the incident in question. If the claim is late, then potentially you can be precluded from compensation. In your case, the claim is very much out of time and you may in fact be precluded from claiming compensation. I can however consider a late claim for compensation if lodgement of the claim is for example, due to a mistake, absence from Australia or other reasonable cause. I can also consider a late claim where there has been no prejudice to the Commonwealth. Prejudice may arise, for example, where because of the lateness of the claim I am unable to investigate your claim and to obtaining contemporaneous or corroborative evidence.

In order to assist me in relation to my deliberations concerning the lateness of your claim, and the potential affect upon your entitlement to claim compensation in the first place, I would like your submission as to the explanation for the lateness of your claim. Please advise:

1. When you first became aware of your conditions?
2. When did you first seek medical treatment for your conditions?
3. Were you aware of your right to claim compensation?
4. Were you aware of your right when you first became aware that you were suffering from the conditions?
5. Please explain why you did not lodge a claim for compensation prior to your discharge from the ADF?

Could you also provide us with details of your employment history post-discharge from the ADF (eg. employer's name, address, period of service and nature of employment). Please also provide a list of medical practitioners and their addresses that you have visited since discharge (also provide a brief note on the nature of the medical treatment obtained for each practitioner referred to).

After I have received your further submissions in relation to the matters raised above, I will be in a better position to determine an appropriate course of action to resolve your request for reconsideration and you will be notified accordingly.

I can be contacted on I can be contacted on [REDACTED] should you have any queries regarding this matter.

Yours sincerely

Paul Reis
Review Officer



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