



Australian Government
Department of Veterans' Affairs

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Department of Veterans' Affairs
GPO Box 9998
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File Reference: SPA0073-02

Thursday, 21 April 2016

Mr David Sparreboom

REDACTED
REDACTED QLD 4570

Mr Ian Bowd
Gympie RSL Sub Branch
217 Mary St
GYMPIE QLD 4570

Dear Mr Sparreboom

SAFETY, REHABILITATION AND COMPENSATION ACT 1988 (SRCA)
Reconsideration Q2016-200

I refer to your advocate's letter dated 7 April 2016 asking us to reconsider the decision made on 15 March 2016 in respect of a Post Traumatic Stress Disorder condition.

That determination denied liability for the claimed condition on the grounds that the delegate was not satisfied this condition had been materially contributed to by your military employment.

DECISION

It is my decision to Affirm the determination dated 15 March 2016.

REASONS

I have examined all the evidence available to me and I have taken note of the reasons put forward in your advocate's request for reconsideration, namely that you did report the abuse to Captain Wemyss, but you are unaware of what happened post that report.

By way of background I note that according to our records you enlisted into the Australian Army on 1 January 1970 and you were discharged on 1 January 1974.

I further note that on 1 March 2016 you lodged a claim for compensation for a "PTSD mental illness" condition. You attributed the condition to bastardisation and assault while you were at the Balcombe Army Apprentice School.

I note the report from Psychiatrist Dr Chris Martin dated 18 September 2014 states in part *"Mr Sparreboom advised that he was subject to severe sexual and physical abuse during his army service. He recalled that he was blamed for some misdemeanour which resulted in his whole squad being punished, precipitating a pattern of ongoing abuse. Mr Sparreboom recalled being assaulted in the shower, being beaten up by drunken colleagues, having his bed overturned while he was asleep and receiving a kicking, and a particularly traumatic incident when he was awoken at 3am by assailants who inserted a broomstick in his anus."*

The delegate denied your claim as he was unable to obtain corroborative evidence that the bastardisation and assault occurred as stated. The delegate noted:

"Unfortunately, therefore, there are no entries in your Defence records which corroborate the events which you state occurred".

The delegate noted he had contacted the Department of Defence who advised that they did not hold any records concerning the alleged events.

I have sighted several medical reports from Nambour General Hospital which details several incidents and observations by medical professionals which led to a diagnosis of Depression and PTSD. I note that Psychiatrist Dr Martin has also stated you suffer from an *"anxiety disorder which fulfils the DSM5 criteria for PTSD."* I have also read several accounts from Social Worker Josephine Bartley in 2015 who has also detailed several accounts of the difficulties you have faced.

When reading your medical reports from your service in the military, I cannot find any accounts of any reported abuse or difficulties. On one report dated 6 February 1970 under "Psych Comment" it's written *"A little put off with all the discipline... troubles finding a bit hard to conform is this quoted properly?... No correction but is slow to adjust... likes the rest of the school and should be OK in time."*

There were other reports from your military service which detail other physical conditions, such as a cough, chest infection, bronchitis and deafness experienced after a firing exercise, blood tests, x-ray of your left hand, etc. In another entry there is a notation that states "Young lad in no obvious distress" when describing symptoms of Asthma

Your claim was denied accordingly and you have requested a reconsideration of that decision.

In support of your claim we have been provided with a copy of the Defence Abuse Response Taskforce (DART) decision regarding your claim.

However I do not consider that the determination from DART is sufficient for me to accept your claim. That determination was made in the context of the evidence the DART delegates had before them and to the standard of proof applicable to that assessment. That standard of proof is based on an assessment of "plausibility" which means that your allegations were accepted on the basis that they had an appearance of "reasonableness".

The standard of proof required for a DART decision is very different to the standard of proof applicable under the Safety, Rehabilitation and Compensation Act (SRCA) 1988, is the 'balance of probabilities' test and the 'material or significant contribution' test. DART decisions are not binding on MRCC assessments under statutory schemes such as the SRCA.

This means that before liability can be accepted, I have to be satisfied, on the balance of probabilities, that the events you describe as being the cause of your condition, occurred as stated. I have been unable to confirm these events did occur as stated, and therefore the balance of probabilities test has not been met, notwithstanding the DART decision.

I note we asked the Department of Defence to provide us with all evidence relating to the reported incidents. There is no report from a Captain Wemyss in the Defence records in relation to the reported abuse. As detailed above, I cannot locate any other evidence on the reports from your Defence Service that states it occurred as stated.

Having considered all the available evidence I am subsequently not satisfied, on the balance of probabilities, that the PTSD condition you currently suffer is related to your military service.


I have affirmed the determination dated 15 March 2016 accordingly.

If you think this decision is wrong, you may have it reviewed by the Administrative Appeals Tribunal (AAT). I have enclosed information about the AAT for you to read.

You should be aware that if you do appeal to the AAT and the decision is not in your favour, you will be liable to pay your legal costs, if there are any. If your appeal is successful, costs or part costs may be paid for you.

If there is anything you would like to discuss, please phone me on REDACTED

Yours sincerely



Jayne Poulson
Reviews Officer
Military Rehabilitation and Compensation Commission

Enclosure:

1 Information about the Administrative Appeals Tribunal (AAT)