

[REDACTED]  
**War Pensions Number**

## VETERANS' ENTITLEMENTS APPEAL BOARD

**Name:** [REDACTED]

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**Service Number and Rank:** [REDACTED]  
Royal New Zealand Air Force

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**Address:**

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**Grounds of appeal:** Appeal against the 16 May 2019 decision of the Review Officer to uphold the 7 August 2018 decision of the Decision Officer denying cover for right knee osteoarthritis as service-related under the Veterans' Support Act 2014.

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**Held:** at Wellington on 16 October 2020

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**Parties:**

**The Appellant**

**The Respondent, Veterans' Affairs New Zealand, represented by Ms Ann-Marie Tribe**

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**Publication:**

Pursuant to the powers vested in it by section 238(3) of the Veterans' Support Act 2014, the Appeal Board, on its own initiative and after consultation with the Appellant, makes an Order prohibiting publication of the name, service number, rank and address of the Appellant.

**Outcome: Confirm Review Officer's decision**

**Summary of reasons for decision:**

The Appellant's right knee osteoarthritis is not service-related.

The medical evidence shows that the osteoarthritis was caused by the meniscal tear sustained in the accident on 1 March 1984, during a period of service outside of qualifying service that is covered by the Veterans' Support Act 2014.

# DECISION

This is an appeal by [REDACTED] (the Appellant) against the 16 May 2019 decision of the Review Officer to uphold the 7 August 2018 decision of the Decision Officer to decline right knee osteoarthritis as service-related under the Veterans' Support Act 2014.

## Background

### Qualifying service

The Appellant's service is recorded as being in the Royal New Zealand Air Force between 13 January 1970 and 31 March 1986.

He has qualifying routine service during the period 13 January 1970 to 31 March 1974.

The Appellant's service from 1 April 1974 to 31 March 1986 is not currently covered by the Veterans' Support Act 2014 (the Act).

At the time of the Appellant's application and the Review Officer's decision, his service with the Multinational Force and Observers in the Sinai from 29 May 1983 to 20 January 1984 was not qualifying operational service.

Following a 27 July 2020 Gazette notice, service with the Multinational Force and Observers in the Sinai was declared to be operational service.

The Appeal Board thanks the Appellant for his service.

### Issue

The issue is whether the Appellant's right knee osteoarthritis is service-related under the Veterans' Support Act 2014.

### Left and right knee medical information from the 1970's

An entry from the Appellant's service medical file dated 25 February 1970, refers to problems with his left knee "Medial side of L knee rather swollen, no known cause...."

On 2 March 1970 it states: "Injured L knee again...."

On 31 March 1970 it records: "...complained of soreness medial aspect of (L) knee – was marching at Wigram when (L) knee gave out on him. Sore for 3 weeks. OK until 4 days ago-began to ache again..." The Appellant was referred for an X-ray of both knees. The referral letter states:

Pain medial aspect (L) knee joint. This knee suddenly became painful when he was marching and again end Feb 70. Recovered, but symptoms recurrent 4 days ago. On examination Tenderness medial joint line (L) knee.

The X-ray report dated 2 April 1970 in respect of both knees was reported as showing no abnormality in either knee joint.

On 15 April 1970, the Appellant's service file records that he still had pain in his left knee.

On 23 June 1970, the file states: "Complaint of L knee 'gives out' during marching and PT, long history of this...."

### **Accident during service causing a right knee meniscal tear and operations to excise the tear**

On 1 March 1984, the Appellant was running for about half an hour, after one month of training. After his run he experienced pain in his right knee.

NZ Armed Forces Clinical Report entries state:

5 March 1984: "Twisted right knee jogging. Some swelling. Crepe bandage...."

7 March 1984: "Right knee pain after running – started one week ago. No effusion now. Soreness mainly over med(ial) side of joint – slight tenderness...."

10 April 1984 ".... now running again – knee better, but has been a bit swollen at times. On examination site of soreness is still at medial joint line: very slight tenderness. Movements full. No effusion....."

An Accident Compensation Corporation (ACC) First Medical Certificate dated 25 June 1984 notes the Appellant's injury was in March 1984 and the diagnosis of right medial meniscus tear.

A 6 July 1984 right knee X-ray was reported as showing no evidence of trauma.

On 28 August 1984 Mr Russell Tregonning, orthopaedic surgeon, described the onset of symptoms in a letter:

...This man hurt his right knee in March of this year, when he was increasing his mileage and running about ½ - hour after about a month of training. After one such run he came in with a medial pain quite well localised over the joint line and the next day he seemed to have a swollen knee. This decreased after 2 days and he stopped running for 3 weeks. He was able to run then quietly for another week, but once again the pain recurred. Since then he has had intermittent swelling and pain related to exercise, although he is still able to do gymnastics at times, but at others he has got medial knee pain. Sitting with bent knees also gives him the pain, although stairs are O.K. and he does not find twisting or turning a particular problem. He is otherwise fit.

Mr Tregonning noted the X-rays were normal and he was arranging an arthrogram to look at the meniscus.

On 6 September 1984, a right knee arthrogram was reported as showing, "An extensive horizontal tear of the medial meniscus extending well posteriorly".

On 10 October 1984, Mr Tregonning performed a partial closed meniscectomy to excise the tear. ACC funded that surgery. A report from Mr Tregonning dated 1 February 1985 notes that:

... It was rather a difficult procedure as the tear was well peripheral and posterior and there was some scuffing of the articular surfaces and a tight knee.

On 1 February 1985, the Appellant returned to see Mr Tregonning because of pain in his medial knee. Mr Tregonning's letter dated 1 February 1985 refers to examination findings of

tenderness in the post medial joint and in the tibia below the joint, and the "medial McMurray's gives him pain still with no clunking". The Appellant was being treated with anti-inflammatories.

A letter from Mr Tregonning dated 5 March 1985, refers to [REDACTED] having a flare up in pain, persisting posterior medial joint tenderness, and medial McMurray's giving him pain. He noted that there was, "A possibility of instability of the meniscal remnant".

On 13 March 1985, Mr Tregonning re-arthroscoped the Appellant. His letter dated 22 March 1985 refers to his operation findings as follows:

... At the site of my old partial medial meniscectomy, he did have unstable remnants in the posterior horn. Whether this was due to a new injury or my breaching the peripheral rim during excision of the original tear, I was not certain.

Anyway, I removed the unstable tissue right out to the capsule so that he no longer has a posterior horn to this meniscus and hopefully, therefore, should not get more trouble.

On 31 March 1986, the Appellant left the Air Force.

### **Work accidents**

In December 2007 when the Appellant was working at the New Zealand Railways Corporation he slipped on the ground and injured his right knee.

On 23 September 2009, the Appellant bumped his right knee while climbing ladders at work at a supermarket, and made an ACC claim on 5 October 2009.

The consultation notes of Dr Kylie Vannaman, a general practitioner on 5 October 2009, refer to the Appellant having:

Right knee pain since bumping it while going up and down ladders at work on 23/9. Bit sore at work, awoke markedly swollen the next morning, improved with rest, ice, elevation.

...

Had previous meniscal injury 12/07 during work. Remote history arthroscopic surgery x 2 during Airforce in early 1980's.

### **Osteoarthritis diagnosed**

On 29 November 2009, the Appellant had an X-ray funded by ACC that was reported as showing:

Prominent osteoarthritic changes present with subchondral sclerosis, a few pseudo cysts, marginal osteophytic lipping, moderate to marked narrowing of cartilage space in medial compartment and mild narrowing in patellofemoral articulation. Minor varus deformity. Small joint effusion but no opaque loose body seen.

An ultrasound funded by ACC taken on 30 October 2009, was reported as showing:

The features are compatible with a posterior Baker's cyst, with surrounding inflammatory change and a suprapatellar bursal effusion. MRI is examination of choice for evaluation of the menisci and the cruciate ligaments.

A letter from Dr Jones in December 2009, a general practitioner with a special interest in

orthopaedics gives his opinion that:

...The medial pain is most likely related to the knock on the knee, but may be related to underlying osteoarthritis secondary to the past meniscal injury. The Baker's cyst is possibly related to meniscal injury new or old.

An MRI scan taken on 17 March 2010, was reported in part as showing:

Most of the medial meniscus has been resected with only a small, macerated tag persisting posteriorly. The articular cartilage in the medial compartment has been almost completely obliterated.

A letter from Mr Bentall dated 21 April 2009, refers to the MRI arthrogram of the right knee showing:

Marked post traumatic degeneration of the medial compartment. ... A small, macerated tag of medial meniscus at the posterior horn, but his major symptoms will be related to the full thickness articular cartilage loss he has for the greater part of his medial compartment.

### **Right knee replacement surgeries**

On 11 August 2010, the Appellant underwent a partial right knee replacement. Orthopaedic surgeon, Mr Stephen Bentall, reported on 18 August 2010 and 2 September 2010 that he was pleased with the Appellant's progress. The surgery and rehabilitation was funded by ACC, with the Appellant returning to work.

On 1 October 2012, Mr Bentall diagnosed loosening of the tibial compartment of the right knee, and sought ACC funding to revise the right knee replacement, given the pain and loosening.

A general practitioner's note dated 24 March 2011, refers to the Appellant developing increasing discomfort with activity in approximately January 2011.

On 5 December 2012, Mr Bentall carried out the revision of the right total knee replacement on the basis that the Appellant had, "Aseptic loosening tibial compartment previous right ZUK unicondylar knee replacement". ACC funded that surgery.

In October 2016, the Appellant had an arthroscopy and open lateral patellar facetectomy funded by ACC and carried out by Mr John Van Dalen, orthopaedic surgeon. He has since been diagnosed with a symptomatic right knee joint replacement.

### **Application for Disablement Pension**

On 13 September 2017, the Appellant applied to Veterans' Affairs for a Disablement Pension in respect of his right knee. His application refers to symptoms of constant soreness and swelling in his right knee. He claimed the period of service where the injury occurred was 1970 to 1986. He stated that service had caused his condition as follows:

Original injury due to sport, marching, etc. Knee would continue to deteriorate as time progressed.

The Appellant provided a letter from Mr Van Dalen dated 19 September 2017 in support. Mr Van Dalen diagnosed the Appellant's problem as a, "Symptomatic right knee arthroplasty". He refers to the Appellant describing having, "An injury back in 1975 to his right knee joint".

Mr Van Dalen noted that imaging taken after the arthroscopies:

...confirmed evidence of degenerative changes within the medial compartment, which were assessed as being post traumatic.

...

In October 2016, I then undertook an arthroscopy of the right knee joint and open lateral patellar facetectomy. Following the surgery there was improvement, but unfortunately, he has not had complete resolution of symptoms, which again I believe are related to the patellofemoral joint.

Further X-rays have been arranged recently, which show a secure right total knee joint arthroplasty and also normal tracking of the patella.

Conclusion:

Sadly, [REDACTED] has symptomatic right total knee joint replacement which has not been a success in the point of view of having ongoing symptoms, mainly related to the patellofemoral joint. This is despite the patella having been replaced at the time of the original revision joint arthroplasty and further revision work being undertaken with excision of a prominent lateral patellar facet.

Veterans' Affairs investigated the application for a Disablement Pension. That included asking the Appellant to complete a "Carrying Heavy Loads Questionnaire". The Appellant did so on 31 May 2018. Veterans' Affairs also obtained the medical information set out above.

### **Decision Officer's decision**

On 7 August 2018, a Decision Officer issued a decision that the Appellant's right knee osteoarthritis was not related to service. The Decision Officer considered the balance of probabilities Statement of Principles (Osteoarthritis number 62 of 2017). Ms Anne Marie Grealish, Decision Officer, gave the reason that there was:

No service connection can be made with a factor that may have led to the development of osteoarthritis of the right knee.

She noted in particular that the Statement of Principles recorded factors linked to the development of osteoarthritis of a particular joint. She noted:

Factors include, but not limited to, underlying diseases, trauma, carrying and lifting loads to a certain weight and duration during eligible service. If a factor is applicable to [REDACTED]'s development of osteoarthritis of right knee, then the next step is to work out if [REDACTED]'s service is connected with that reason for developing the osteoarthritis. In this case, no service connection can be made with a factor that may have led to the development of osteoarthritis of the right knee.

On 17 September 2018, Veterans' Affairs advised the Appellant of the Decision Officer's decision.

On 15 October 2018, the Appellant applied for a review on the basis that:

Osteoarthritis in my right knee as a result of injury and medical intervention whilst a serving member of the RNZAF. This condition occurred after injury, not before.

## **Review Officer's decision**

On 16 May 2019, Ms Christine Gane, Review Officer, made a decision to uphold the Decision Officer's decision of 7 August 2018 and to decline to accept osteoarthritis of the right knee as service-related.

The Review Officer considered the medical evidence held by Veterans' Affairs, including that from ██████████'s service file and from his ACC file, and analysed whether the Appellant's right knee osteoarthritis was connected to his qualifying service. The Review Officer noted in particular:

Documentation shows knee replacement surgery for osteoarthritis/post traumatic degenerative changes of the right knee that can be directly connected to the meniscal injury of the right knee sustained in 1984, during a period of service outside of qualifying service that is not covered by the Veterans' Support Act 2014.

Reference to the Statement of Principles concerning Osteoarthritis No. 62 of 217 shows no factors that can connect ██████████'s current disablement of the right knee to his qualifying service prior to 1 April 1974.

Veterans' Affairs communicated the Review Officer's decision to ██████████ on 22 May 2019.

## **Service in the Sinai Peninsula declared operational**

On 27 July 2020, service in the Sinai Peninsula of the Arab Republic of Egypt from 25 April 1982 up to and including 30 September 2022 was declared to be operational service for the purposes of the Veterans' Support Act 2014.

## **The Appellant's appeal**

On 25 October 2019, ██████████ appealed the Review Officer's decision. His grounds for appeal are:

I do not feel that enough attention has been paid to the following:

1. RNZAF medical records 25 February 1970 through to 2 April 1970 that shows trouble with both knees.
2. Letter from Mr Tregonning dated 22 March 1982 stated that he was unsure if he had breached the peripheral rim during excision of the original tear.
3. I can find no mention of the difficulties that Stephen Bentall (Orthopaedic Surgeon, Hastings) encountered before and after both operations of my right knee.

In addition to these, on 25 March 2019 my MP (Harete Hipango) passed a letter onto the Honourable Ron Mark, Minister of Defence and Veterans' Affairs, seeking clarification of the confusion between the "two operational lists".

On 15 October 2019 I contacted my local MP's office regarding the abovementioned letter as I had heard nothing from Minister Mark.

On 16 October 2019 I was advised that my letter had been overlooked and had not been actioned. ... As I was counting on clarification of operational service list from the Minister, I now find that I have no option but to appeal the review decision before my six months expires.

## Hearing on the papers

### Procedure

Arrangements were made for the hearing on 16 October 2020.

On 19 August 2020, the Appellant advised he did not wish to attend the hearing but he provided some written submissions in his email. In these circumstances, Veterans' Affairs advised the Appeal Board that it would not attend the hearing in person and the appeal could be determined on the papers.

Pursuant to section 52(3) of the Veterans' Support Regulations 2014 the Appeal Board can determine the appeal without hearing oral evidence from the Appellant, and the Appeal Board decided it was appropriate to do so in this case.

### Summary of the Appellant's case

The Appellant made the following main points:

- As his service in the Sinai Peninsula has been classified as Operational Service, he feels eligible for all entitlements and services specified in the Veterans' Support Act 2014.
- He had a service-related injury and 5 knee surgeries and is in constant pain.
- His service records show trouble with both knees in 1970.
- Mr Tregonning's evidence is that he may have breached the peripheral rim of his patella during his first surgery.
- Veterans' Affairs has not taken into account difficulties that Mr Bentall had before and after his operations.

### Summary of the Respondent's case

The Respondent provided written submissions. It made the following main points:

- Only some of ██████████'s service is covered by the Veterans' Support Act 2014.
- The Review Officer considered all supporting information including ██████████'s service medical files and medical information.
- No injury was reported in 1970 in respect of the right knee, which is the subject of the appeal, so the level of force related to marching does not meet the SOP factor criteria.
- The only recorded injury to the right knee occurred while the Appellant was running in March 1984, during a period of non-qualifying service.
- The degenerative changes to the right knee and treatment required are a result of the injury in March 1984, and are not covered under the Veterans' Support Act 2014.
- Injuries that occur during periods of non-qualifying service are covered under the Accident Compensation Act 2001. ██████████ has an accepted claim with ACC.

- The Appellant's service in the Sinai Peninsula was gazetted after the review decision that has been appealed. [REDACTED]'s role while serving in Sinai was in an administrative capacity. His service did not have an impact on his ability to meet any factors in the SOP.

### **Appeals under the Veterans' Support Act 2014**

The Veterans' Support Act 2014 (the Act) came into force on 7 December 2014.

An appeal made to the Appeal Board is a de novo appeal, and it is not bound by any findings of fact made by the decision maker whose decision is the subject of the appeal.

Appeals are required to be heard and determined without regard to legal or procedural technicalities. When hearing an appeal, the Appeal Board may, among other things, receive any evidence or information that, in its opinion, may assist it to determine the appeal, whether or not that evidence or information would be admissible in a court of law.

The Appeal Board may determine an appeal without hearing oral evidence from the Appellant.

The Appeal Board is required, among other things, to comply with the principles of natural justice, and in accordance with the following principles: the principle of providing veterans, their spouses and partners, their children, and their dependants with fair entitlements; the principle of promoting equal treatment of equal claims; the principle of taking a benevolent approach to the claims; and the principle of determining claims in accordance with substantial justice and the merits of the claim, and not in accordance with any technicalities, legal forms, or legal rules of evidence.

The Appeal Board, by majority vote, must confirm, modify or revoke the review decision, or make any other decision that is appropriate to the case. If the Appeal Board revokes the decision it is required to substitute its decision for that of the Review Officer or require Veterans' Affairs to make the decision again in accordance with directions it gives to Veterans' Affairs.

### **Statement of Principles**

The Australian Statements of Principles that are applicable in New Zealand and apply for the purposes of the Veterans' Support Act 2014 are listed in Schedule 1 of the Veterans' Support Regulations 2014.

For every kind of injury or disease, the Repatriation Medical Authority makes two SoPs: a 'reasonable hypothesis' SoP (which in effect says there is sound medical scientific that a particular injury/disease/condition can be connected to service), and a 'balance of probabilities' SoP (which says it is more probable than not that a particular injury/disease/condition can be connected to service).

### **Analysis**

The specific issue on Appeal is the Review Officer's 16 May 2019 decision to uphold the 7 August 2018 Decision Officer's decision declining to accept the Appellant's right knee osteoarthritis as being service-related.

## **The Appeal Board confirms the Review Officer's decision.**

The Appellant's right knee osteoarthritis is not service-related.

### **Process to decide whether to accept a claim**

Section 14 of the Veterans' Support Act 2014 sets out the sequential steps to be taken in deciding whether to accept a claim. This section stipulates that the first step is to consider all the available material that is relevant and decide whether the material is consistent with a hypothesis that the veteran's injury, illness, or death was service-related. If the material is consistent with such a hypothesis then the second step in the process is to decide whether there is a SoP that applies. If there is no SoP that applies, then section 15 applies. If there is a SoP that applies, the third step is to decide whether the hypothesis is consistent with the SoP. If it is consistent with the SoP, the claim must be accepted unless there are reasonable grounds for believing that the veteran's injury, illness, or death was not service-related.

### **The Review Officer's decision**

The Board noted that the Review Officer correctly decided that the Appellant only had qualifying routine service under the Veterans' Support Act 2014 for the period 13 January 1970 to 31 March 1974. At the time of the Review Officer's decision, the Appellant did not have any qualifying operational service.

The Board also noted that the Review Officer correctly decided that the presumptions provided in sections 19 and 21 of the Veterans' Support Act 2014 did not apply in the Appellant's case; that the matter should be determined under section 14 of the Veterans' Support Act 2014.

The Review Officer correctly identified that the Statement of Principles adopted by New Zealand relevant to the Appellant's diagnosis and qualifying service is Osteoarthritis No. 62 of 2017 (Balance of Probabilities).

Osteoarthritis is defined in section 7:

Meaning of osteoarthritis

- (2) For the purposes of this Statement of Principles, osteoarthritis means a degenerative joint disorder with:
- (a) clinical manifestations of pain, impaired function and stiffness; and
  - (b) radiological, other imaging or arthroscopic evidence of loss of articular cartilage or osteophytes; and
  - (c) excludes acute articular cartilage tear and osteochondritis dissecans.

Section 9 provides that:

At least one of the following factors must exist before it can be said that, on the balance of probabilities, osteoarthritis or death from osteoarthritis is connected with the circumstances of a person's relevant service:

...

- 9 (6) having trauma to the affected joint within the 25 years before the clinical onset of osteoarthritis in that joint;

9(8) having an acute meniscal tear of the affected knee within the 25 years before the clinical onset of osteoarthritis in that joint;

The Appellant has been diagnosed with osteoarthritis of the right knee. The medical evidence shows that diagnosis was made following an X-ray in 2009.

The Review Officer also correctly noted that the osteoarthritis / post-traumatic degenerative changes of the right knee can be directly connected to the meniscal injury of the right knee sustained in 1984, during a period of service outside of qualifying service that is covered by the Veterans' Support Act 2014.

The medical evidence shows, on the balance of probabilities, that the index injury is one that occurred on 1 March 1984 when the Appellant twisted his right knee while running. The NZ Armed Forces clinical report dated 5 March 1984 refers to the running event on 1 March 1984, and the Appellant experiencing pain and swelling in his right knee over the next month or so several times after running. The Appellant was diagnosed with a right knee meniscal tear.

Unfortunately for the Appellant, the 1984 accident did not occur during a period of qualifying routine or operational service. It occurred outside that period, a few months after the Appellant returned from his operational service in the Sinai.

In fact, the Appellant has ACC cover for a right knee medial meniscal tear, and ACC funded the initial surgery to repair the tear in 1984, and subsequent surgeries including the partial knee replacement, and the total knee joint replacement. The medical evidence shows that the right knee replacement surgery was required to treat osteoarthritis, that occurred as a result of the 1984 medial meniscal injury.

The Review Officer considered whether the Appellant meets any of the criteria in the Statement of Principles concerning Osteoarthritis (Balance of Probabilities) no 62 of 2017. She correctly decided that Factor 8 of the SoP is met because the Appellant had an acute meniscal tear of the affected knee within the 25 years of clinical onset of osteoarthritis in a joint, but that tear occurred in March 1984 during a period of the Appellant's service that is non qualifying, so cover is excluded.

The Review Officer also correctly concluded that the Appellant does not meet Factor 14 of the SoP in respect of lifting loads and carrying weights over a certain time period.

The Appellant's osteoarthritis cannot therefore be accepted as service-related.

The Appeal Board has specifically considered each of the four grounds of appeal that the Appellant has raised.

### **Ground 1**

The Appellant submitted that Veterans' Affairs had not taken into account the RNZAF medical records of 23 February 1970 through to 2 April 1970 that show he had trouble with both of his knees.

The medical attendance and treatment card entries in the Appellant's service records show five entries between February and June 1970 referring to problems with his left knee. There are no entries in respect of his right knee

An RNZAF medical report dated 31 March 1970 notes a referral for X-rays after the Appellant experienced pain in his left knee when he was marching.

The 2 April 1970 X-ray report taken of both knees, was reported by the radiologist as showing no abnormality present in either knee joint, or in the related soft tissues, and no joint effusion.

That evidence does not show, on the balance of probabilities, that the marching undertaken in 1970 is the cause of the Appellant's right knee osteoarthritis.

The medical evidence shows, on the balance of probability, that the right knee osteoarthritis occurred as a result of the 1984 medial meniscal injury.

**The Appeal Board finds** that the Appellant's right knee osteoarthritis was not caused by any injury in the 1970s.

## **Ground 2**

The Appellant submitted that Veterans' Affairs had not taken into account Mr Tregonning's 22 March 1985 evidence that he was unsure if he had breached the peripheral rim during excision of the original tear.

There is no medical evidence or medical opinion on file to show that any breach of the peripheral rim is the cause of the Appellant's right knee osteoarthritis. The comment by Mr Tregonning is incidental and not relevant.

**The Appeal Board finds** the Appellant's right knee osteoarthritis was not caused Mr Tregonning's actions.

## **Ground 3**

The Appellant submitted that Veterans' Affairs had not taken into account the difficulties that Mr Bentall encountered before and after both operations of his right knee.

There is no medical opinion that any difficulties Mr Bentall faced before and after his surgeries were the cause of the Appellant's right knee osteoarthritis. In fact, there is X-ray evidence from 2009 showing osteoarthritis and MRI scan evidence from 17 March 2010 showing osteoarthritis which pre-existed the partial knee replacement undertaken by Mr Bentall in 2010.

**The Appeal Board finds** the Appellant's right knee osteoarthritis was not caused Mr Bentall's surgery.

## **Ground 4 - Service in Sinai subsequently being gazetted**

The Appellant submitted that he should now be entitled to cover for osteoarthritis because his service in the Sinai Peninsula has been gazetted as operational.

However, the Appellant's accident which caused his meniscal tear did not occur whilst he was in the Sinai Peninsula. It occurred after he had returned home from that deployment.

**The Appeal Board finds** that the Appellant's osteoarthritis is not service-related by virtue of the fact that his service in the Sinai Peninsula has now been gazetted as operational service.

**Conclusion**

The Appeal Board confirms the 16 May 2019 decision of the Review Officer, that the Appellant is not entitled to a Disablement Pension because his right knee osteoarthritis is not service-related.

**Outcome**

The Appeal Board dismisses the appeal.



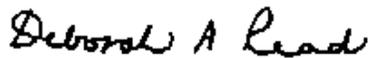
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Ms Raewyn Anderson, Chairperson



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Mr Christopher Griggs, Member



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Dr Deborah Reid, Member



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Dr Chris Holdaway, Member

Date: 12 November 2020