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**War Pensions Number**

## **VETERANS' ENTITLEMENTS APPEAL BOARD**

**Name:** John CARTER

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**Service Number and Rank:** Lieutenant Commander, Royal New Zealand Navy

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**Address:** 10 Peach Grove, Taupo

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**Grounds of appeal:** Appeal against the 17 September 2020 decision of the Review Officer to uphold the 28 August 2020 decision of the Decision Officer declining to accept Dental Caries (reclassified as Dental Decay) as service-related under the Veterans' Support Act 2014

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**Held:** at Wellington on 13 August 2021, concluded 27 August 2021

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**Parties:**

The Appellant, Lieutenant Commander (Retired) John Carter, his advocate Mr Gavin Smith  
The Respondent, Veterans' Affairs New Zealand, represented by Ms Paula Carr, Decisions Team Leader and Ms Ann-Marie Tribe, Manager Applications and Entitlements

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

**Summary of reasons for decision:**

The available material is not consistent with a hypothesis that the Appellant's dental decay (dental caries and tooth wear) in 2019 was related to his service between 1961 and 1974. Even if a hypothesis existed, the Appellant does not meet any factors in either Tooth Wear Statement of Principles (**SoP**) 52/2017 or Dental Caries SoP 122/2015.

The condition of dental decay is not currently a presumed condition for veterans such as the Appellant who were exposed to nuclear radiation during service in HMNZS *Otago* on 22 July 1973.

Because the Appellant's condition of dental decay is not service-related, the Appellant is not entitled to receive treatment funded by the Respondent to treat that condition.

The reference to other veterans' cases did not persuade the Appeal Board that the Appellant's condition was service-related.

The Appeal Board confirms the 2020 decision of the Review Officer to uphold the 28 August 2020 decision of the Decision Officer declining to accept Dental Caries (reclassified as Dental Decay) as service-related under the Veterans' Support Act 2014.



## **DECISION**

This is an appeal by John CARTER (the Appellant) against the 17 September 2020 decision of the Review Officer to uphold the 28 August 2020 decision of the Decision Officer declining to accept Dental Caries (reclassified as Dental Decay) as service-related under the Veterans' Support Act 2014 (**the Act**).

### **Background**

#### **Qualifying service**

Lieutenant Commander (Retired) Carter served in the Royal New Zealand Navy between 13 January 1961 and 1 February 1981. He has qualifying routine service during the period 13 January 1961 and 31 March 1974. He has qualifying operational service in the Indonesian Confrontation between 3 November 1965 and 23 April 1966 and the French Nuclear Test at Mururoa between 22 and 28 July 1973.

The Appeal Board thanks the Appellant for his service.

#### **Preservice accident**

Before he joined the Navy, the Appellant was hit with a crowbar damaging some of his teeth. On 16 March 1960 he had a gold filling placed in a top front tooth. On 17 March 1960 he was certified "dentally fit".

#### **Application for New Conditions and Reassessment of Accepted Disabilities for broken tooth**

In 2019 the gold filling fell out. On 5 September 2019 the Appellant sought help from the Respondent for treatment by applying for the "new condition" of "tooth broken". He wrote that "some fillings have fallen out or tooth broken around them, gold filling keeps falling out."

The Respondent treated his application as an application for a Disablement Pension.

On 3 December 2019 the Respondent sought an assessment from dentist Tim Coulter at The Dentists Taupo.

On 23 February 2020 the Appellant emailed the Respondent following up on his assessment regarding "assistance with dental repairs to replacement of fillings and a gold cap which keeps falling out."

After initially suggesting the Appellant contact the dentist himself to arrange an appointment, on 8 June 2020 the Respondent sought an assessment from the Taupo Dental Centre instead.

On 17 June 2020 the Respondent received a Dental Questionnaire from the Appellant. He recorded that he had been a smoker up to 1971.

## Dr Wilcox

On 19 August 2020 the Respondent received a report from the Appellant's dentist Nick Wilcox outlining his request for treatment funding from the Respondent. He provided the Appellant's dental records and another copy of the Dental Questionnaire. He wrote:

I had not seen Mr Carter since 2009, and prior to this intermittently since 2002.

Unsurprisingly there are now a number of dental issues that require addressing. My proposed treatment plan is itemised tooth by tooth as follows:

Tooth 11, has a gold inlay and has decay issues, 12 and 22 also require restoration. It is my recommendation that for the best result all four upper incisors should be crowned. The cost for this would be \$5,000.

Other teeth requiring treatment:

Tooth 14 requires a restoration filling, \$220.

Tooth 23 is also \$180.

Tooth 27, \$250.

Tooth 45 requires a multisurface restoration, \$350.

Tooth 46, a minor repair, \$180.

Along with this restorative work I recommend that Mr Carter attend our dental hygienist for scaling and cleaning, \$150.

The work totals \$6,130 inclusive of GST.

## Decision Officer's decision

On 28 August 2020, the Decision Officer decided that the condition of Dental Caries could not be accepted as a service-related condition under the Act. The Decision Officer noted that the condition applied for was "Tooth Broken", and that, "Mr Carter believes that his broken tooth is due to fillings falling out or teeth breaking around them".

The Decision Officer noted that Dr Wilcox had made a "confirmed diagnosis of dental caries." He reasoned that the reasonable hypothesis Statement of Principle (**SoP**) applicable to the diagnosed condition is Dental Caries 122/2015, and that no factors were met linking the condition to service.

The Decision Officer wrote:

...Mr Carter's service file does show evidence of him being treated for dental caries. However the presence of the condition during his qualifying service does not in and of itself cause a condition to be considered service-related for the purposes of the Veterans' Support Act 2014, it still must meet a factor as listed in the Statement of Principles.

Having considered all of the available evidence, the only factor listed that could potentially be considered as possibly service-related is 9(3) smoking at least three pack years of cigarettes, or the equivalent thereof and other tobacco products, before the clinical onset of dental caries and where smoking has ceased, the clinical onset of dental caries has occurred within 10 years of cessation. In order for this factor to be met, Mr Carter must

have a smoking habit that has either been caused by or contributed to by his service in the Royal New Zealand Navy.

In a smoking questionnaire provided to Veterans' Affairs by Mr Carter, dated 17 November 2007, Mr Carter has stated that he commenced smoking in 1959, this is two years prior to the commencement of his service in the Royal New Zealand Navy. This means that his smoking habit was established prior to service and cannot therefore be said to have been caused by service.

We must therefore determine this pre-existing habit has been contributed to by his service, Mr Carter has advised that his consumption of tobacco products did not increase during his service and in fact he ceased altogether in 1971. This information means that his smoking habit cannot be considered to have been contributed to by his qualifying (sic) in the Royal New Zealand Navy.

For these reasons, Mr Carter's condition of dental caries cannot be accepted as a service-related condition for the purposes of the Veterans' Support Act 2014.

On 4 September 2020, the Respondent advised the Appellant of that decision. The letter notes that the outcome of his "application for a Disablement Pension for Broken Tooth (new) - redefined to Dental Caries", was that he had been declined a Disablement Pension for Dental Caries.

### **Review lodged**

On 8 September 2020, the Appellant applied for a review of that decision. He noted that his application was not for dental caries but was for broken teeth/fillings. The reasons he gave for reviewing the decision included that he had:

....applied for repairs to broken teeth/fillings for a gold tooth filling put into a front tooth by dentists at HMNZS *Tamaki*, which falls out at the time of application in October 2019 and has now partially broken. At the rear of the same tooth the filling fallen out. First molar right lower broken/filling, second molar right lower same, third molar right lower same. Also smoking, I may have started smoking at 15 because I did, but it was certainly not a habit because I was still at College until I joined, having received six of the best from the Head for having nicotine on my fingers, as well as my mother not approving smoking, certainly was not a habit. Until joining with Duty Free tobacco available.

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

On 17 September 2020, the Review Officer's decision was to uphold the Decision Officer's decision declining Dental Caries (reclassified as Dental Decay) as service-related under the Act.

The Review Officer identified a second relevant SoP 50/2017 Tooth Wear.

The Review Officer could not establish a hypothesis, as required by section 14 of the Act that the Appellant's condition was service-related. He wrote:

There is historic evidence of dental decay (including both caries and wear) and the treatment of the same in Mr Carter's service records. The treatment appears, on the whole, to have been appropriate and effective in treating the damage caused. We have to assume that Mr Carter departed the service in 1981 without significant pathology or deficits in

treatment. We have no record of civilian dental care between 1981-2002, however the historic record provided by Mr Carter's dentist from 2002-2009, apart from an abscess and subsequent root canal in 2006, does not indicate a significant degree of dental damage, decay or degradation of the historic repairs over this period. The assumption from this is that Mr Carter's dentition was reasonably healthy in 2009, without evidence of the current decay or damage, and that the subsequent changes to his dentition have occurred in the 11 year period between 2009-2020, some 30+ years after the completion of his service.

In keeping with Part 1 section 14 of the VSA, before a condition can be considered as service-related, there must first be a hypothesis associating the condition to service. In this instance I cannot reasonably establish a hypothesis connecting the damage to Mr Carter's dentition occurring between 2009-2020 and the conditions of his service between 1961-81.

In the absence of a valid hypothesis, the claim should not be assessed against a SoP. In my opinion, the original claim should not have progressed past the first step described in the legislation for determining claims.

In summary he noted:

Mr Carter has dental caries and degradation of historic repairs to his dentition.

The dental records suggests that most of this damage occurred in the 11 year period between 2009-2020, and that his dentition was relatively stable prior to this.

There is no valid hypothesis by which the damage occurring after 2009 can be associated with service.

The Respondent advised the Appellant of that decision on 23 September 2020.

### **Application for new conditions**

On 12 February 2021, the Appellant applied for the new condition of Teeth Failure. He noted symptoms of random teeth breaking for no apparent reason. He said that service had caused that condition as a result of, "NBCD training with radiation isotopes, attendance at Mururoa Atoll during French testing, sailing around the atoll where previous tests held, distilling fresh water from the sea in those areas".

### **The Appellant's appeal**

On 1 March 2021, the Respondent received the Appellant's appeal.

In summary his grounds of appeal were that the current failure of his teeth is a combination of his smoking, on board second hand smoke, exposure to radiation during service when HMNZS *Otago* went too close to Mururoa Atoll and exposure to contaminated water in HMNZS *Otago*, all of which had taken some time to manifest itself.

## Hearing

### Procedure

The hearing was adjourned part-heard because Mr Smith said that he wished to produce evidence from other veterans who had had teeth conditions accepted as service-related.

On 13 August 2021, Mr Smith filed evidence from veterans Anthony Cox and Graham Petch.

The Respondent filed submissions in relation to that new evidence and the hearing concluded on 27 August 2021.

### Appellant's case

#### Appellant's evidence

The Appellant told us that, before he joined the Navy, a crowbar was dropped on his face. On joining the Navy one front tooth was filled with gold. That gold filling fell out in 2019. He thought the Navy should pay to repair the gold filling because they put it in. When he wrote to the Respondent to fund the repair, he was "hit" with a smoking questionnaire. As a kid he picked up a cigarette butt and joined in smoking with his mates. It certainly wasn't a habit. Cigarettes were not a big thing before he joined the Navy. In the Navy they were free and cheap so he joined in. He doesn't know how many packs of cigarettes he smoked a week. He spent nine years at sea. He stopped smoking in 1971. His teeth were fine until 2009.

At Mururoa he was on the bridge of HMNZS *Otago* and noticed an oil rig which appeared on the horizon at sunrise. That meant they were inside the safety zone and too close to Mururoa. He believes he was exposed to radiation. There was also radiation in the distilled seawater they used for cooking, drinking, showering. The instruments did not detect the radiation but Lieutenant Carter thought that they were perhaps calibrated too low or the exposure was too low. He believes the dose wasn't a high dose but it was a dose, nonetheless. He said that radiation can cause tooth decay over time. He said that the Respondent accepts veterans were exposed to radiation in Mururoa, so they should accept that his teeth may have been affected. The boilers on board HMNZS *Canterbury* had to be written off because the metal was brittle and he understands that was caused by radiation.

He is receiving treatment for service-related skin cancer, and a rugby injury. He cannot see the difference between that and his filling repair.

His teeth have now been repaired.

#### Stephen Aldridge affidavit

Mr Aldridge was serving in HMNZS *Canterbury* when it deployed to Mururoa Atoll. He served as a radio mechanic so maintained electronic equipment. An alarm indicated airborne radiation which he believes was atmospheric radioactivity from the larger detonation witnessed by personnel on aboard HMNZS *Otago*.

## **Chief Petty Officer Alan Hamilton affidavit**

Chief Petty Officer Hamilton was serving in HMNZS *Canterbury* as boiler room Petty Officer in Charge when the ship deployed to Mururoa. At no time did he see any testing of seawater taking place. He concurs with Mr Denis Shaw's comment in the Mururoa Nuclear Veterans Group Reply to the Pilaster Deployment Mururoa 1973 Radiological Review report (**the Pilaster Reply Report**). The Pilaster Reply Report found that not enough study was done on seawater contamination around Mururoa Atoll and the testing equipment was inadequate.

## **Submissions**

Mr Smith made the following main points in his written and oral submissions:

- The Appellant just wanted a gold filling replaced. the Respondent misread the application and decided he was applying for a Disablement Pension for Dental Caries
- The Appellant's dental caries are a result of radiation attracted to the fillings in his mouth during his service at Mururoa. the Respondent accepts that Mururoa was a radiation source. This should be taken into account in the SoPs.
- The general consensus is that radiation can cause damage to teeth. This suggests that Dental Caries should be added to the presumptive list for Mururoa veterans. the Respondent accepts that some cancers are caused by radiation, and they are presumed conditions.
- Section 6 of the Pilaster Reply Report records that about 8.4 kg of caesium entered the ocean between 1966 and 1974 and that must have had an effect on the atoll and surrounding seawater. The author noted, "More information is required on the effects of boiling water under a vacuum to obtain fresh water".
- A boiler on board HMNZS *Canterbury* was overhauled as a consequence of changes to the water filled tubes' molecular construction by hardening. That is likely to have been caused by radiation contamination.
- The dental caries may have been caused by the lack of fluoride in distilled water in the ship.
- The Appellant's problem was caused by dental work which could be attributable to the Navy's dental service.
- The Appellant smoked before entering service but not on a regular basis. He did not have a habit before entering service. Second-hand cigarette smoke was caused by air conditioning on the ship. That is not addressed by the SoPs.
- While the Appellant's teeth are failing some 48 years after he was at Mururoa, dental work done in 2007-2010 was done on a required basis and that has now manifested itself because repairs had not been actioned.
- They accept the Appellant does not meet the SoP for Dental Caries and Dental Caries is not on the presumptive list. the Respondent chose Dental Caries in order to defeat the Appellant's claim. Another SoP may apply.

- Two other Mururoa veterans have had their teeth repaired by the Respondent, one who had periodontitis and the other who was grinding and crushing his teeth at night.

### **The Respondent's case**

Ms Carr spoke to written submissions filed by Ms Tribe. She made the following main points:

- The Appellant's application for Dental Caries was declined by the Decision Officer because there were no factors in the Dental Caries 122/2015 SoP which could link that condition to his military service.
- The Review Officer upheld that decision but disagreed with the grounds for decline, determining that there was no hypothesis under section 14 of the Act that the Appellant's current dental state could be related to his qualifying service in the Navy. There was historic evidence of dental decay, including both caries and tooth wear as well as treatment for that. The treatment appeared to have been appropriate and effective for the conditions in question. The Appellant left service in 1981 without any significant pathology or deficits in treatment.
- The Appellant enlisted in 1961 and was accepted as being fit for service including being dentally fit.
- The Appellant's dental caries first became evident during his service as noted in 1963 and were appropriately treated at the time.
- There is no evidence of the Appellant suffering from dental issues during his qualifying operational service in the Indonesian confrontation or at Mururoa Atoll.
- Dental caries is not a conclusively presumed condition to be applied to veterans who observed the French nuclear tests at Mururoa Atoll.
- Even if a hypothesis could be raised regarding the dental caries that became evident in 1963, the Appellant needs to meet one of the relevant SoP factors. The only relevant factor is that mentioned in section 9(3) related to smoking. As the Appellant was an established smoker prior to service, and his habit did not worsen during service but in fact ceased, the factor is not met. Exposure to second-hand smoke and radiation exposure are not factors under this SoP.
- Dental records show that the Appellant's dentition was reasonably healthy in 2009 and the subsequent changes to his dentition occurred in the 11 year period between 2009 and 2020, some 30 years after the completion of his service.
- Neither the Statement of Principles for Dental Caries (122/2015) nor Tooth Wear (52/2017) note radiation exposure as a factor in the development of dental problems.
- If the Board determines that radiation is a potential cause, despite being absent from the Statement of Principles, the Respondent relies on the ESR report in respect of radiation exposure in Mururoa, which provided that:

The distillation process itself safeguards against transfer of contaminants to the distillate.

No fallout deposition on the ship was detected, indicating no fallout there or in the vicinity. There was thus no contamination of intake seawater associated with airborne radioactivity detection. ... Exposure to fallout radionuclides in drinking water is not a credible concern.

- Scientific evidence does not support potential radiation exposure sustained by distilled drinking water being a cause of the Appellant's dental problems. The Respondent cannot add conditions to the SoP. The Veterans' Health Advisory Panel can recommend that the Minister for Veterans adopt changes to the SoPs.
- Second-hand smoke is not a factor in the SoPs.
- An inability to obtain exposure to fluoride in water is a potential factor in the SoP for dental caries, but that factor is constructed in terms of the inability being on more days than not for a continuous one year period in the five years before clinical onset.
- The current deterioration in dentition that resulted in the Appellant's claim occurred between 2009 and 2020, which is some 40 years after the completion of his qualifying service.
- The Respondent accepts the affidavits from Mr Aldridge and Mr Hamilton, but the SoPs do not include radiation exposure as a factor which can cause dental caries.
- The cause of Mr Cox's dental problems is a separate and distinct problem to that faced by the Appellant, and is not comparable to his situation. There is no evidence that the Appellant has tooth wear or bruxism, so Mr Cox's decision is not a useful comparison and does not support the Appellant's claim being service-related.
- Mr Petch's condition was accepted on the basis that he met a factor in the Statement of Principles for Periodontitis (47/2013), which relates to smoking and the timing of the development of periodontitis. The Appellant has not claimed for periodontitis. Mr Petch's and the Appellant's diagnoses are different, even allowing that the smoking factor is common to the two cases. The particular history or Mr Petch's smoking habit and its relationship to the onset of his condition are not comparable to the Appellant's situation, so it is not a useful comparator and does not support the Appellant's claim being service-related.

## **Analysis**

The Board had specific regard to all the principles specified in section 10(b) of the Act, and the overarching benevolent intent of the Act.

Section 14 of the Act sets out the sequential steps to be taken in deciding whether to accept a claim. 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 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.

Section 21 provides that some injuries, illnesses and conditions must be treated as service-related.

Clause 12 of the Veterans' Support Regulations 2014 contains the list of illnesses and conditions conclusively presumed to be service-related for veterans who served in HMNZS *Otago* on 22 July 1973. That clause states:

- 12        **Exposure to nuclear radiation**
- (1)        This regulation applies to a veteran if the veteran served—
- (a)        with J Force in Japan at any time during the years 1946 to 1952; or
  - (b)        on HMNZS Pukaki or HMNZS Rotoiti at any time during the years 1957 and 1958; or
  - (c)        on HMNZS Otago on 22 July 1973; or
  - (d)        on HMNZS Canterbury on 28 July 1973.
- (2)        If the veteran suffers from an illness or a condition described in subclause (3), the illness or condition must be treated as service-related.
- (3)        The illnesses and conditions are—
- (a)        all forms of leukaemia (except for chronic lymphocytic leukaemia):
  - (b)        bronchioloalveolar carcinoma:
  - (c)        cancer of the thyroid, breast, pharynx, oesophagus, stomach, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary tract (renal, ureter, urinary bladder, or urethra), brain, bone, lung, colon, or ovary:
  - (d)        lymphomas (other than Hodgkin's disease):
  - (e)        multiple myeloma:
  - (f)        primary liver cancer (except if cirrhosis or hepatitis B is indicated).

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

The Appeal Board acknowledges the Appellant's genuine need for dental work. The Appellant asked the Respondent to fund treatment for a tooth, specifically to replace a gold filling that had been provided by the Navy in 1961 to treat a pre-service injury.

The Appeal Board observes that the Appellant has had his gold filling replaced now, as there have been delays in his request being processed by the Respondent, due in part to an 11 month delay in a dentist providing a report. The fact that the Appellant has had treatment is not a bar to his appeal.

In order to be eligible to receive an entitlement such as treatment, a veteran must have the condition requiring treatment accepted as being service-related. The fact that the Appellant's application was treated as an application for a Disablement Pension as opposed to an application for treatment (i.e. the repair of the filling), does not alter the fact that the first

question the Respondent had to consider was whether the condition requiring treatment was service-related.

Pursuant to section 14 of the Act, the first step for the Appeal Board to decide is whether the facts are consistent with a hypothesis that the veteran's condition was service-related. Section 7 defines "service-related" as "caused by, contributed to, or aggravated by qualifying service."

The Appellant has qualifying routine and operational service under the Act. His qualifying operational service was in the Indonesian Confrontation on board HMNZS *Taranaki* between 3 November 1965 and 23 April 1966 and observing the French Nuclear Tests at Mururoa Atoll on board HMNZS *Otago* between 22 July 1973 and 28 July 1973. The condition in question is dental decay, more particularly described as degraded fillings and dental caries.

For a condition to be service-related, the Act requires a valid hypothesis of a relationship to service, and for that hypothesis to be consistent with one or more of the factors within the SoPs associated with the condition.

The Appeal Board accepts that the relevant SoPs identified in the Appellant's case are:

- Tooth Wear SoP 52/2017
- Dental caries SoP 122/2015

The Appeal Board rejects any suggestion that the Respondent selected SoP Dental Caries in order to defeat the Appellant's claim. It is a relevant SoP for dental decay. In fact the Review Officer broadened the scope for potential SoPs to include Tooth Wear, in order to assist the Appellant.

The Appeal Board must make its decision based on the dental evidence in the Appellant's case.

The Appeal Board agrees with the Review Officer's determination that there is no hypothesis that the Appellant's condition of dental decay could be related to his qualifying service.

The Appellant enlisted in 1960 and was accepted as being fit for service including being dentally fit, after he had some dental work completed. The service medical file shows that the Appellant's dental decay, including both dental caries and tooth wear, were noted during service and were appropriately treated at the time. Dental caries was first diagnosed in 1963. There is no evidence of the Appellant suffering from dental issues during his qualifying operational service in the Indonesian Confrontation or at Mururoa Atoll. There is no evidence that the Appellant left service in 1981 with untreated dental decay.

The evidence from Dr Wilcox, the Appellant's dentist at the time, suggests that most of the Appellant's dental decay occurred in the 11 year period between 2009 and 2020. The Appeal Board finds that there is no valid hypothesis by which the damage occurring after 2009 can be associated with service some 28 years prior. The evidence shows, on the balance of probabilities, that the Appellant's need to have his gold filling replaced is most likely to be the result of post service general wear and tear as opposed to being caused by, contributed to, or aggravated by his qualifying service.

Even if the Appellant could establish a hypothesis, he does not meet any factor in either Dental Caries (Reasonable Hypothesis) SoP 122/2015 or Tooth Wear (Reasonable Hypothesis) SoP 52/2017 to connect his condition to his service.

The factor in section 9(3) of SoP 122/2015 requires the Appellant to have smoked at least three pack years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of dental caries and, where smoking has ceased, the clinical onset of dental caries must have occurred within 10 years of cessation. The Appellant's case does not meet this factor.

The factor in section 9(4) requires an inability to obtain exposure to fluoride on more days than not for a continuous period of at least one year, within five years before the clinical onset of dental caries. The Appellant's case does not meet this factor.

The Appeal Board could not identify any factors in the Tooth Wear (Reasonable Hypothesis) SoP 52/2017 that were present in the Appellant's service.

Whilst the Appeal Board has empathy for the Appellant's situation and accepts that he was likely exposed to nuclear radiation during his service in HMNZS *Otago* on 22 July 1973, dental decay is not a conclusively presumed condition for those veterans. The Appellant is therefore not eligible to have his condition accepted as being service-related on that basis.

Because the Appellant's dental decay is not service-related, he is not entitled to receive treatment for that condition funded by the Respondent.

The Appeal Board finds that the information provided about other Mururoa veterans who have had dental conditions of periodontitis and bruxism accepted by the Respondent does not assist the Appellant in establishing that his condition of dental decay was service-related. This is because they are different claimed conditions and the decisions have been made based on the service and dental records for those veterans.

## Conclusion

The Appeal Board confirms the Review Officer's decision of 17 September 2020 upholding the 28 August 2020 decision of the Decision Officer declining to accept Dental Caries (reclassified as Dental Decay) as service-related under the Veterans' Support Act 2014.

## Outcome

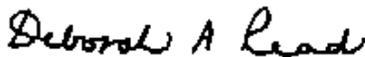
The Appeal Board dismisses the appeal.



Ms Raewyn Anderson, Chairperson



Mr Christopher Griggs, Member



Dr Deborah Read, Member



Dr Chris Holdaway, Member

Date: 17 September 2021