

Federal Court



Cour fédérale

**Date: 20230227**

**Docket: T-1515-20**

**Citation: 2023 FC 279**

**Ottawa, Ontario, February 27, 2023**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**KEENAN A. FEENEY**

**Applicant**

**and**

**MINISTER OF VETERAN AFFAIRS**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Keenan Feeney (“Mr. Feeney”), is a veteran of the Canadian Armed Forces. He is challenging a decision of Veterans Affairs Canada [VAC] finding him ineligible for reimbursement of his daughter’s daycare costs while he was recovering from service-related injuries. VAC found that Mr. Feeney’s circumstances did not meet the eligibility conditions for

“additional dependent care” expenses as set out in subsection 15(1) of the *Veterans Well-being Regulations*, SOR/2006-50 and VAC’s related policy.

[2] The decision Mr. Feeney challenges was made by a Manager in the National Second Level Appeals Unit of VAC on July 24, 2019. Mr. Feeney asserts that he did not receive the decision until December 10, 2020 and therefore he was not out of time when he filed the notice of this application for judicial review on December 16, 2020. An application for judicial review has to be filed within 30 days after the time the decision or order was first communicated by the decision-maker (*Federal Courts Act*, RSC, 1985, c F-7, s 18.1(2) [*Act*]). The Respondent argues that Mr. Feeney received the decision shortly after it was made. The Respondent further argues that there are a number of indications in the record that Mr. Feeney was aware of the decision and received it prior to the date he claims.

[3] I agree with the Respondent. I find that Mr. Feeney has not demonstrated that the decision was first communicated to him on December 10, 2020. The evidence in the record does not support this assertion. Further, though Mr. Feeney was aware for approximately six months that the Respondent is challenging the timeliness of his application for judicial review, he made no motion for an extension of time to file the application for judicial review.

[4] Based on my reasons below, the application for judicial review is dismissed.

II. Analysis

[5] This Court has declared Mr. Feeney a vexatious litigant under section 40 of the *Act* (*Feeney v Canada*, 2021 FC 1213 at paras 23-25). He is barred from instituting new proceedings in this Court without leave and all proceedings instituted by him are stayed, except for the current proceeding (T-1515-20). The Federal Court of Appeal dismissed Mr. Feeney's appeal of this Court's vexatious litigant Order (*Feeney v Canada*, 2022 FCA 190).

[6] The determinative issue on this judicial review is whether Mr. Feeney has met the requirements in subsection 18.1(2) of the *Act*; namely, whether he filed his application for judicial review within the required timeline.

[7] Mr. Feeney asserts in his application that he received the Manager's decision, dated July 24, 2019, for the first time on December 10, 2020. There are several problems with this assertion. First, the Respondent provided evidence showing that VAC mailed the decision to Mr. Feeney on July 24, 2019. This evidence is set out in the affidavit of Kerri Wilkinson, who is a National Rehabilitation Consultant at VAC. Second, Mr. Feeney requested a reconsideration of the July 24, 2019 decision. A copy of this request for reconsideration is before me and it is dated August 9, 2019. Mr. Feeney addresses the Manager's decision he is challenging on judicial review in this request. Mr. Feeney argues that this evidence should not matter because, while he knew that the decision was refused because his case manager had told him, he had never received the decision letter. Arguably, subsection 18.1(2) of the *Act* still applies because he had knowledge of the decision (*Robertson v Canada (Attorney General)*, 2016 FCA 30 at para 7).

[8] In any case, the July 24, 2019 decision under review was provided to Mr. Feeney in a motion record filed by the Respondent in another proceeding (T-19-20) involving Mr. Feeney and VAC. The Respondent served this motion record on Mr. Feeney on July 20, 2020. Mr. Feeney maintains that he had not seen the decision until December 10, 2020 when it was uploaded to his VAC account.

[9] I find that Mr. Feeney had knowledge of the July 24, 2019 decision at least 16 months prior to filing the notice in this application for judicial review. Further, Mr. Feeney was served with a copy of the decision approximately five months before filing this application for judicial review.

[10] In these circumstances, with no motion to extend the time for filing, despite being aware of the Respondent's arguments on timeliness for approximately six months prior to the judicial review hearing, I see no basis to alter the time limit set out in the *Act*.

**JUDGMENT IN T-1515-20**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed; and
2. No costs are awarded.

"Lobat Sadrehashemi"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1515-20

**STYLE OF CAUSE:** KEENAN A. FEENEY v MINISTER OF VETERAN AFFAIRS

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** SEPTEMBER 6, 2022

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** FEBRUARY 27, 2023

**APPEARANCES:**

Keenan Feeney

FOR THE APPLICANT,  
ON HIS OWN BEHALF

Keelan Sinnott

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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FOR THE RESPONDENT