Federal Court of Appeal

Cour d'appel fédérale

Date: 20150505

Docket: A-226-14

Citation: 2015 FCA 119

CORAM: **GAUTHIER J.A.**
RYER J.A.
WEBB J.A.

BETWEEN:

ANNE COLE

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on February 25, 2015.

Judgment delivered at Ottawa, Ontario, on May 5, 2015.

REASONS FOR JUDGMENT BY:	RYER J.A.
CONCURRED IN BY:	WEBB J.A.
CONCURRING REASONS BY:	GAUTHIER J.A.

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REASONS FOR JUDGMENT

RYER J.A.

[1] This is an appeal from a decision (2014 FC 310) of Mr. Justice de Montigny of the Federal Court (the "Federal Court Judge") in which he dismissed an application for judicial review brought by Anne Cole. The decision under review was made by the Veterans Review and Appeal Board (the "Board"), pursuant to section 29 of the *Veterans Review and Appeal Board Act*, S.C. 1995, c. 18 (the *"VRAB Act"*), on September 10, 2012. In it, the Board refused to grant

Ms. Cole's application for a disability pension, pursuant to paragraph 21(2)(*a*) of the *Pension Act*, R.S.C. 1985, c. P-6 (the "*Pension Act*"), for the claimed condition of major depression.

[2] Captain Cole's 21-year military career ended on February 1, 2007, when she was medically discharged on account of four conditions, including major depression and chronic dysthymia with obsessive compulsive traits.

[3] After her discharge, Ms. Cole made an application to the Department of Veterans Affairs (the "DVA") for a disability pension in respect of her military service on account of her major depression. The DVA considered that her application was brought under paragraph 21(2)(*a*) of the *Pension Act*, which reads as follows:

(2) In respect of military service rendered in the non-permanent active militia or in the reserve army during World War II and in respect of military service in peace time,	(2) En ce qui concerne le service militaire accompli dans la milice active non permanente ou dans l'armée de réserve pendant la Seconde Guerre mondiale ou le service militaire en temps de paix :
(*a*) where a member of the forces suffers disability resulting from an injury or disease or an aggravation thereof that arose out of or was directly connected with such military service, a pension shall, on application, be awarded to or in respect of the member in accordance with the rates for basic and additional pension set out in Schedule I;	*a*) des pensions sont, sur demande, accordées aux membres des forces ou à leur égard, conformément aux taux prévus à l'annexe I pour les pensions de base ou supplémentaires, en cas d'invalidité causée par une blessure ou maladie — ou son aggravation — consécutive ou rattachée directement au service militaire;
[Emphasis added]	[Je me souligne.]

[4] A disability pension in respect of peacetime military service cannot be granted under paragraph 21(2)(*a*) of the *Pension Act* unless the applicant's injury or disease (the "claimed

condition"), or an aggravation thereof, "arose out of or was directly connected" with the applicant's military service. This language requires the applicant to establish a causal connection between the claimed condition and his or her military service.

[5] The record before the Board contained evidence that Ms. Cole's depression could be traced to factors related to her military service ("Military Factors") and factors related to her personal life ("Personal Factors").

[6] The Board rejected Ms. Cole's application for a disability pension on the basis that she failed to establish that the Military Factors caused or aggravated her claimed condition.

[7] In reviewing the Board's decision, the Federal Court Judge determined that the Board required Ms. Cole to establish that the Military Factors were the "primary cause" of the claimed condition. In upholding the Board's decision, he concluded that the Board made no reviewable error in using "primary cause" as the degree of causation required by the phrase "arose out of" in paragraph 21(2)(*a*) of the *Pension Act*.

[8] For the reasons that follow, I am of the view that both the Board and the Federal Court Judge erred in their interpretation of the degree of causal connection required by the phrase "arose out of or was directly connected with" in relation to Ms. Cole's pension application.

[9] Because Ms. Cole's claimed condition was directly linked to both the Military Factors and the Personal Factors, the determinative issue in this appeal is the degree or extent of causal

connection that is required to establish that her claimed condition “was directly connected with” her military service.

[10] In my view, that causal connection requirement will be satisfied if the Military Factors are established to have been a significant cause of her claimed condition. This is a lesser degree of causation than primary cause.

[11] Because the Board failed to apply this lesser degree of causal connection in assessing whether Ms. Cole’s claimed condition “was directly connected with” her military service, I would return this matter to the Board to make this determination using such lesser degree of causal connection.

BACKGROUND

[12] In light of my conclusion that the outcome of this appeal is primarily a matter of statutory interpretation, a detailed review of the facts is not warranted.

[13] At all times that are relevant to this appeal, Ms. Cole was married to another member of the military. On a number of occasions during her military career, her husband was required to be away. These absences caused stress to Ms. Cole as she cared for the children of the marriage without assistance from her husband.

[14] It is not disputed that at the time of her release, Ms. Cole was suffering from major depression, which was the basis of her application for a disability pension in 2007 (appeal book page 32).

[15] It is equally undisputed that, at all levels of review of her application, up to and including the review by the Board, there was cogent evidence to the effect that Ms. Cole's depression was grounded in both the Military Factors and the Personal Factors.

[16] The Military Factors included a number of work-related stressors and disappointments. Three work-related events caused Ms. Cole particular disappointment; namely, the failure to obtain a deployment to the former Yugoslavia in the mid-1990s, a less than outstanding Personnel Evaluation Report in 1999 and the revocation of her approval for deployment to Washington in March of 2000. In addition, she was stressed by having to resort to the grievance procedure to remove the 1999 Personnel Evaluation Report from her file.

[17] The Personal Factors included a difficult childhood and personality traits. With regard to personality traits, the evidence indicated that Ms. Cole has difficulties coping with relatively minor disappointments, suffers from a dysthymic disorder and has a maladaptive personality, predisposing her to depression.

PROCEDURAL HISTORY

[18] By correspondence dated July 10, 2007, the DVA refused to grant Ms. Cole's application for a disability pension under paragraph 21(2)(*a*) of the *Pension Act*. In that correspondence, the DVA stated:

> A review of your service medical records indicate that you were diagnosed and treated for Major Depression during your service period. However, there is a lack of documented and objective evidence to show that your military service duties or any other service factors caused or contributed to the development and/or aggravation (permanent worsening) of the claimed condition.
>
> [Emphasis added]

[19] Dissatisfied with this decision, Ms. Cole asked for a review of it by an Entitlement Review Panel, as permitted under the *VRAB Act*. In upholding the denial of her disability pension application, the Entitlement Review Panel, on June 17, 2008, stated:

> After having reviewed all of the evidence, the Board cannot conclude that service factors were the causative factors of the claimed condition and cannot see a permanent worsening from these factors. The Board cannot conclude that pension entitlement is indicated.
>
> [Emphasis added]

[20] In July of 2012, Ms. Cole appealed the Entitlement Review Panel's decision to the Board. In denying the appeal, the Board made the following findings:

> The onus is on the Appellant to demonstrate to the Board that military factors caused and/or aggravated the claimed condition. […]
>
> However, the Board was not convinced that these work issues were the source of her depression. […]
>
> While work stressors are noted, they do not appear to take prevalence in the treatment sessions. [...]

> However, without the evidence to establish that service factors caused or aggravated the claimed condition, the Board is regrettably unable to deliver a more favourable response at this time.
>
> [Emphasis added]

[21] Ms. Cole applied to the Federal Court to review the Board's decision. The Federal Court Judge dismissed the application on the basis that the evidence before the Board was sufficient to support its conclusion that Ms. Cole's "medical condition was not caused by her military service".

[22] In paragraph 25 of his reasons, the Federal Court Judge framed the issue before him as follows:

> The sole issue before the Appeal Panel was whether the Applicant had established that her disability arose out of or was directly connected to her military service. This issue involves both the interpretation of the Appeal Panel's enabling statutes and the application of the law to the facts. This Court and the Federal Court of Appeal have confirmed on a number of occasions that the Appeal Board's weighing of the evidence and interpretation of its statutory scheme is reviewable on a standard of reasonableness.

[23] Although the Federal Court Judge acknowledged that the issue before him included the interpretation of the *Pension Act*, this excerpt from his reasons indicates that, in determining the standard of review, he characterized the question before him as one of mixed fact and law in respect of which there was no readily extricable legal issue of statutory interpretation.

[24] The Federal Court Judge addressed Ms. Cole's assertion that the Board erred by failing to explain its determination of the appropriate standard of causation mandated by the phrase "arose out of or was directly connected with" and how that standard applied to Ms. Cole's

circumstances. In doing so, he acknowledged that by virtue of section 2 of the *Pension Act* and section 3 of the *VRAB Act* (reproduced below), paragraph 21(2)(*a*) must be given a broad and generous interpretation.

[25] At paragraphs 34 to 36 of his reasons, the Federal Court Judge stated:

> [34] It is clear that the disease or injury (or the aggravation thereof) need not be directly connected to the military service, as the connecting word "or" is used in paragraph 21(2)(*a*) to link "directly connected" with "arose out of". At the same time, it would clearly not be sufficient for a claimant to solely show that he or she was serving in the armed forces at the time, as it would presumably be if the claim was made pursuant to paragraph 21(1)(*a*). This is precisely the conclusion reached by the Federal Court of Appeal in *Canada (Attorney General) v Frye*, 2005 FCA 264. In that case, the Court found that "… while it is not enough that the person was serving in the armed forces at the time, the causal nexus that a claimant must show between the death or injury and military service need be neither direct nor immediate" (at para 29). See also *Bradley v Canada (Attorney General)*, 2011 FC 309; *Hall v Canada (Attorney General)*, 2011 FC 1431.
>
> [35] In other words, I agree with the Applicant that paragraph 21(2)(*a*) does not require proof of a direct connection, but I disagree that some kind of causal connection would be sufficient or that military service was among the contributing causes of her disability. *It seems to me that the words "arising out of" and the overall context of the statute call for something more than some nexus or causal connection, and require that the military service be the main and prevalent cause of the disease or injury, or at the very least a significant factor.* Another way of putting it might be to say that the injury or disease would not have occurred but for the military service.
>
> [36] This is precisely the standard that the Appeal Board applied in its decision. Even though the Appeal Board did not state explicitly the causation paradigm it was applying, it emerges from its analysis (and especially from the two quotes reproduced at paragraph 22 of these reasons) that it was not convinced the Applicant would not be suffering from major depression had it not been for the work stressors and the workplace difficulties she encountered through her military career. This interpretation of paragraph 21(2)(*a*) was clearly reasonable and consistent with the prevailing jurisprudence on this issue. *The Appeal Board was not requiring the Applicant to prove sole or direct causation, as alleged by the Applicant, but was looking for evidence that the military factors played a primary or major role in the aggravation or onset of her claimed condition. In doing so, the Appeal Board made no reviewable error.*
>
> [Emphasis added in italics]

[26] These paragraphs make it clear that the Federal Court Judge was considering the causative requirements of only the words "arose out of" and not the words "directly connected with" in paragraph 21(2)(*a*) of the *Pension Act*. In paragraph 35 of his reasons, he appears to conclude that "arose out of" required military service to be "the main or prevalent cause" or "at the very least a significant factor". However, in paragraph 36 he concludes that the Board interpreted "arose out of" as requiring Ms. Cole's military service to be the "primary or major cause" of her depression, and then found that in using that interpretation, the Board made no reviewable error.

[27] In dismissing Ms. Cole's application on the basis that the Board had sufficient evidence before it that Ms. Cole's claimed condition – her depression – was not caused by her military service, the Federal Court Judge reiterated his conclusion that the phrase "arose out of or was directly connected with" requires a "primary cause" degree or level of causation.

ISSUES

[28] In reviewing a decision of the Federal Court in an application for judicial review of the decision of an administrative tribunal, this Court must determine whether the reviewing court correctly determined the standard of review by which it reviewed the decision of the tribunal. (see *Agraira v. Canada (Minister of Public Safety and Emergency Preparedness*, 2013 SCC 36, [2013] 2 S.C.R. 559, at paragraphs 45 to 47.) If so, then this Court must determine whether the reviewing court correctly applied the appropriate standard. In this regard, the appellate court is

often described as "stepping into the shoes" of the reviewing court. (see *Attaran v. Canada (Attorney General)*, 2015 FCA 37, [2015] F.C.J. No. 100, at paragraph 9.)

[29] If this Court determines that the Federal Court Judge has incorrectly determined or applied the applicable standard, then we must intervene and conduct the necessary review.

[30] In conducting his review, the Federal Court Judge determined that there were two issues before the Board which, in my view, may be summarized as follows:

(a) whether the Board erred in interpreting the phrase "arose out of or was directly connected with", in paragraph 21(2)(a) of the *Pension Act*, as requiring an applicant for a disability pension to establish that his or her military service was the primary cause of the claimed condition (the "Interpretative Issue"); and

(b) whether the Board erred in assessing the evidence and in finding that Ms. Cole is not entitled to a pension under paragraph 21(2)(*a*) of the *Pension Act* (the "Application of Evidence Issue").

[31] Thus, the issues in this appeal are:

(a) Did the Federal Court Judge err in selecting reasonableness as the standard of review with respect to the Interpretative Issue?

(b) If correctness is the required standard of review with respect to the Interpretative Issue, what is the correct interpretation of the causal connection requirement of the phrase "directly connected with" in paragraph 21(2)(*a*) of the *Pension Act*?

(c) If reasonableness is the required standard of review with respect to the Interpretative Issue, was the primary cause interpretation of the causal connection requirement of the phrase "directly connected with", in paragraph 21(2)(*a*) of the *Pension Act*, reasonable?

(d) Did the Board err in its determination of the Application of Evidence Issue?

ANALYSIS

A. Did the Federal Court Judge select the correct standard of review with respect to the Interpretative Issue?

Statutory Context

[32] Subsections 21(1) and (2) of the *Pension Act* permit awards of pensions in respect of military service. The relevant portions of those provisions read as follows:

21.(1) In respect of service rendered during World War I, service rendered during World War II other than in the non-permanent active militia or the reserve army, service in the Korean War, service as a member of the special force, and special duty service,	21.(1) Pour le service accompli pendant la Première Guerre mondiale ou la Seconde Guerre mondiale, sauf dans la milice active non permanente ou dans l'armée de réserve, le service accompli pendant la guerre de Corée, le service accompli à titre de membre du contingent spécial et le service spécial :
(*a*) where a member of the forces suffers disability resulting from an injury or disease or an aggravation thereof that was attributable to or was incurred during such military service, a pension shall, on application, be awarded to or in respect of the member in accordance with the rates for basic and additional pension set out in Schedule I;	*a*) des pensions sont, sur demande, accordées aux membres des forces ou à leur égard, conformément aux taux prévus à l'annexe I pour les pensions de base ou supplémentaires, en cas d'invalidité causée par une blessure ou maladie — ou son aggravation — survenue au cours du service militaire ou attribuable à celui-ci;
(*b*) where a member of the forces dies as a result of an injury or disease or an aggravation thereof that was attributable to or was incurred during such military service, a pension shall be awarded in respect of the member in accordance with the rates set out in Schedule II;	*b*) des pensions sont accordées à l'égard des membres des forces, conformément aux taux prévus à l'annexe II, en cas de décès causé par une blessure ou maladie — ou son aggravation — survenue au cours du service militaire ou attribuable à celui-ci;

(2) In respect of military service rendered in the non-permanent active militia or in the reserve army during World War II and in respect of military service in peace time,	(2) En ce qui concerne le service militaire accompli dans la milice active non permanente ou dans l'armée de réserve pendant la Seconde Guerre mondiale ou le service militaire en temps de paix :
(*a*) where a member of the forces suffers disability resulting from an injury or disease or an aggravation thereof that arose out of or was directly connected with such military service, a pension shall, on application, be awarded to or in respect of the member in accordance with the rates for basic and additional pension set out in Schedule I;	*a*) des pensions sont, sur demande, accordées aux membres des forces ou à leur égard, conformément aux taux prévus à l'annexe I pour les pensions de base ou supplémentaires, en cas d'invalidité causée par une blessure ou maladie — ou son aggravation — consécutive ou rattachée directement au service militaire;
(*b*) where a member of the forces dies as a result of an injury or disease or an aggravation thereof that arose out of or was directly connected with such military service, a pension shall be awarded in respect of the member in accordance with the rates set out in Schedule II;	*b*) des pensions sont accordées à l'égard des membres des forces, conformément aux taux prévus à l'annexe II, en cas de décès causé par une blessure ou maladie — ou son aggravation — consécutive ou rattachée directement au service militaire;
[Emphasis added]	[Je souligne]

[33] In interpreting these and any other provisions of the *Pension Act*, it is important to consider and apply the interpretative mandate contained in section 2 of the *Pension Act*, which reads as follows:

2. The provisions of this Act shall be liberally construed and interpreted to the end that the recognized obligation of the people and Government of Canada to provide compensation to those members of the forces who have been disabled or have died as a result of military service, and to their dependants, may be fulfilled.	2. Les dispositions de la présente loi s'interprètent d'une façon libérale afin de donner effet à l'obligation reconnue du peuple canadien et du gouvernement du Canada d'indemniser les membres des forces qui sont devenus invalides ou sont décédés par suite de leur service militaire, ainsi que les personnes à leur charge.

[34] A similar interpretative mandate is contained in section 3 of the *VRAB Act*, which reads as follows:

3. The provisions of this Act and of any other Act of Parliament or of any regulations made under this or any other Act of Parliament conferring or imposing jurisdiction, powers, duties or functions on the Board shall be liberally construed and interpreted to the end that the recognized obligation of the people and Government of Canada to those who have served their country so well and to their dependants may be fulfilled.	3. Les dispositions de la présente loi et de toute autre loi fédérale, ainsi que de leurs règlements, qui établissent la compétence du Tribunal ou lui confèrent des pouvoirs et fonctions doivent s'interpréter de façon large, compte tenu des obligations que le peuple et le gouvernement du Canada reconnaissent avoir à l'égard de ceux qui ont si bien servi leur pays et des personnes à leur charge.

[35] Subsection 21(1) of the *Pension Act* applies in respect of services rendered during war or special duty service. The language in subsection 21(1) of the *Pension Act* requires that the injury, disease or death of a serviceman or woman and his or her wartime or special duty military service must be "attributable to" or "incurred during" such military service. This level of connectivity has been referred to as the "insurance principle", reflecting a desire on the part of Parliament to provide "full coverage" pension protection to men and women exposed to risks when serving their country during wartime or special duty service (see May 27, 1941, Hansard at page 3167). Thus, the phrase "attributable to" contemplates a degree of causal connection between the death, injury or disease and the wartime or special duty service, while the phrase "was incurred during" contemplates only a temporal connection.

[36] Subsection 21(2) of the *Pension Act* applies in respect of service in the militia or reserve army in peace time. The connectivity language in subsection 21(2) of the *Pension Act* with respect to injury, disease or death of a serviceman or woman and his or her peacetime military

service is "arose out of or was directly connected with" such military service. This language was introduced in 1941, reflecting Parliament's intention to provide less than "full coverage" pension protection in respect of risks to which men and women may be exposed when serving their country in peacetime. Thus, it appears that the phrase "arose out of or was directly connected with" requires a higher degree of causal connection between the death, injury or disease and the peacetime military service than is required by the phrase "attributable to or incurred during" in subsection 21(1) of the *Pension Act*.

The paragraph 21(2)(a) requirements

[37] Establishing entitlement to a disability pension under paragraph 21(2)(*a*) of the *Pension Act* is a four-step process:

a) Step one requires the applicant to demonstrate that he or she has a claimed condition – an injury or disease, or an aggravation thereof.

b) Step two requires the applicant to demonstrate that the claimed condition "arose out of or was directly connected with" his or her service as a member of the forces.

c) Step three requires the applicant to establish that he or she suffers from a disability.

d) Step four requires the applicant to establish that his or her disability resulted from a military service-related claimed condition.

[38] While there is no statutory mandate to conduct the inquiry in this sequence, it seems logical to me, in the particular circumstances of this case, that the establishment of the existence of the claimed condition would precede the establishment of the existence of the disability. Indeed, this approach appears to have been followed by the Board in the instant circumstances.

[39] Disability is defined in subsection 3(1) of the *Pension Act* as follows:

“disability” means the loss or lessening of the power to will and to do any normal mental or physical act;	« invalidité » La perte ou l’amoindrissement de la faculté de vouloir et de faire normalement des actes d’ordre physique ou mental.

This definition of disability is important as it is a distinct element that must be established in step three and must not be conflated with the claimed condition that the applicant must establish in step one.

[40] Steps one and three require factual determinations as to the existence of the claimed condition and the disability. In the circumstances under consideration, there is no issue as to whether Ms. Cole suffers from major depression – the claimed condition – as it was one of the reasons for her discharge from the forces. However, there was no finding with respect to step three because the Board found that the requirements of step two had not been fulfilled.

[41] Both of steps two and four contain causal connection requirements. In step four, the applicant must show a causal connection between the military service-related claimed condition, established in steps one and two, and the applicant’s disability that is established in step three. The nature and extent of this causal connection requirement are not in issue in this appeal. The Board never got to step three because it determined that Ms. Cole had not established the causal connection required by step two.

What standard of review did the Federal Court Judge select: correctness or reasonableness?

[42] In paragraph 25 of his reasons, the Federal Court Judge determined that the issue before the Board "[…] was whether the Applicant had established that her disability arose out of or was directly connected to her military service" (my emphasis). With respect, this formulation of the issue conflated the "injury or disease", the claimed condition that is required to be established in step one of the disability pension entitlement process, with the "disability" that must be established in step three of that process.

[43] The Federal Court Judge went on to state that the resolution of the issue that he formulated involves both an interpretation of the *Pension Act* and the application of that interpretation to the facts. In referring to both the interpretation and application of the legal standard as part of a single issue, it appears to me that the Federal Court Judge concluded that the issue before the Board was one of mixed fact and law, which typically attracts review on the standard of reasonableness.

[44] Applying the reasonableness standard to questions of mixed fact and law is usually appropriate, but may not be if the interpretation of the applicable legal provision is in dispute and is discrete enough to be analysed separately.

[45] The interpretation of the phrase "arose out of or was directly connected with" in paragraph 21(2)(*a*) of the *Pension Act* is a question of law that was in dispute before the Board. In my view, that question was a discrete question of law capable of being considered separately.

Indeed, the Federal Court Judge did deal with the interpretation of this phrase in paragraphs 28 to 36 of his reasons when he considered the appropriate level of causal connection that was required under paragraph 21(2)(*a*) of the *Pension Act*. However, in doing so, the Federal Court Judge applied the reasonableness standard, not the correctness standard, in his review of the Board's interpretation of this phrase.

The correct standard of review: correctness or reasonableness?

[46] Before this Court, the appellant argued that this interpretative question should be reviewed on the standard of correctness. The respondent agreed that with respect to pure questions of law, including those readily extricable from questions of mixed fact and law, correctness should be the standard.

[47] While recent jurisprudence tends to provide deference to experienced tribunals when they interpret their "home statute", this is not a rule of universal application. In *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, the Supreme Court of Canada held that if prior jurisprudence has satisfactorily determined the applicable standard of review, with respect to a particular category of question, it is unnecessary to engage in any further standard of review analysis.

[48] In particular, in paragraph 62 of *Dunsmuir*, Justices Bastarache and LeBel, speaking for the majority, stated:

> In summary, the process of judicial review involves two steps. First, courts ascertain whether the jurisprudence has already determined in a satisfactory

> manner the degree of deference to be accorded with regard to a particular category of question. Second, where the first inquiry proves unfruitful, courts must proceed to an analysis of the factors making it possible to identify the proper standard of review. [Emphasis added]

[49] The continuing application of this approach has been reconfirmed by the Supreme Court of Canada in *Agraira v. Canada (Public Safety and Emergency Preparedness*), 2013 SCC 36, [2013] 2 S.C.R. 559, at paragraph 49.

[50] In *Frye v. Canada (Attorney General),* 2005 FCA 264, [2005] F.C.J. 1316, this Court considered the question of the standard of causation that is required by the phrase “arose out of or was directly connected with” in paragraph 21(2)(*b*) of the *Pension Act*. The Court determined that the interpretation of this phrase was a question of law that was to be reviewed on the standard of correctness.

[51] In my view, the determination by this Court in *Frye* that the correctness standard must be used in considering the interpretation of the phrase “arose out of or was directly connected with” in paragraph 21(2)(*b*) of the *Pension Act* can be regarded as a satisfactory determination of the applicability of the correctness standard to the interpretation of those exact words in paragraph 21(2)(*a*), as required in this appeal.

[52] Moreover, I am of the view that the discernment of the standard of causation that was intended by Parliament when it enacted the phrase “arose out of or was directly connected with” in paragraph 21(2)(*a*) of the *Pension Act*, is a question of importance that extends beyond the ambit of the *Pension Act*. Questions of causation often arise in many other areas of law,

including insurance, torts and workers' compensation. Additionally, it is my view that discerning degrees of causal connection – in marked contrast to applying such levels of causal connection, once discerned – is not a matter with which the Board would regularly grapple. That task, in my view, is one that courts are better suited to perform.

[53] The expertise of the Board with respect to this type of interpretative question stands in marked contrast to the expertise that many tribunals develop with respect to the interpretation of technical provisions of their home statute. For example, when setting freight rates with respect to the shipment of western grain, the Canadian Transportation Agency has to interpret such esoteric terms as the "volume-related composite price index". Clearly, much deference is owed to that Agency in the interpretation of that provision of its home statute.

[54] Similarly, Part V of the *Pension Act* provides for annual adjustments of pensions and allowances on the basis of a number of factors stipulated in that Part. In such circumstances, significant deference should be accorded to the Board in relation to its interpretation and application of the factors upon which such annual adjustments are based.

[55] In addition, in the recent decision of this Court in *Atomic Energy of Canada Ltd. v. Wilson*, 2015 FCA 17, [2015] F.C.J. No. 44, Justice Stratas concluded that the standard of correctness was properly applicable in reviewing the decision of a labour arbitrator in relation to an interpretation of certain provisions of the *Canada Labour Code*, R.S.C. 1985, c. L-2.

[56] In that case, the Court concluded that a “persistent discord” amongst labour arbitrators in respect of the interpretation of a particular provision of that legislation required the Court to review and resolve the interpretative issue by reference to the standard of correctness.

[57] As more fully addressed later in these reasons, there is disagreement, particularly at the Federal Court level, as to the causal connection requirements of the phrase “arose out of or was directly connected with” in paragraph 21(2)(*a*) of the *Pension Act*. Thus, I conclude that the logic applied by this Court in *Atomic Energy of Canada Ltd.* provides further support for my selection of the correctness standard of review with respect to the Interpretative Issue.

[58] In *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895, Moldaver J. states, at paragraph 33:

> [33] The answer, as this Court has repeatedly indicated since *Dunsmuir*, is that the resolution of unclear language in an administrative decision maker’s home statute is usually best left to the decision maker. That is so because the choice between multiple reasonable interpretations will often involve policy considerations that we presume the legislature desired *the administrative decision maker* – not the courts – to make. Indeed, the exercise of that interpretative discretion is part of an administrative decision maker’s “expertise”.
>
> [Emphasis added by underlining]

[59] This passage indicates that there can be cases in which the standard of correctness is properly applicable with respect to the interpretation of the “home statute” of a tribunal. And, for the reasons that I have given, I conclude that this is one of those cases. Accordingly, with respect, I am of the view that the Federal Court Judge erred in his determination that the standard of review with respect to the Interpretative Issue is reasonableness and not correctness.

[60] Nonetheless, I recognize that the "[r]easonableness is the presumptive standard of review when a tribunal is interpreting its home statute or a statute closely connected to its function and with which it will have particular familiarity." (*Canadian Artists' Representation v. National Gallery of Canada*, 2014 SCC 42, [2014] 2 S.C.R. 197 at para.13). Accordingly, I will also review the Interpretative Issue on the standard of reasonableness, in the event that I have erred in my identification of correctness as the applicable standard.

B. What is the correct interpretation of the causal connection requirement of the phrase "arose out of or was directly connected with" in paragraph 21(2)(*a*) of the *Pension Act*?

[61] Having determined that the standard of review that must be applied to the Interpretative Issue is correctness, not reasonableness as found by the Federal Court Judge, I will "place myself into his shoes" and undertake a review of the issue of whether the Board's interpretation of the phrase "arose out of or was directly connected with" in paragraph 21(2)(*a*) of the *Pension Act* was correct.

[62] As noted above, the Board interpreted this phrase as requiring an applicant for a disability pension, pursuant to paragraph 21(2)(*a*) of the *Pension Act*, to establish that his or her military service was the primary cause of his or her claimed condition.

Position of the Parties

[63] The appellant asserts that by virtue of this Court's decision in *Frye*, the level of causal connection mandated by the phrase "arose out of or was directly connected with" in paragraph 21(2)(*a*) of the *Pension Act* should be interpreted as requiring an applicant to establish only that his or her military service was among the contributing causes of the claimed condition in issue. As such, the appellant asserts that the Board's "primary cause" interpretation was incorrect.

[64] The respondent appeared to assert that the applicant's military service must be established to be the primary cause of such claimed condition, and accordingly, the Board made no interpretative error.

Federal Court Jurisprudence

[65] There is disagreement at the Federal Court level, particularly since this Court's decision in *Frye*, as to whether the primary cause level of causal connection is required by the phrase "arose out of or was directly connected with" in paragraph 21(2)(*a*) of the *Pension Act*. (See *John Doe v. Canada (Attorney General)*, 2004 FC 451, [2004] F.C.J. No. 555; *Boisvert v. Canada (Attorney General)*, 2009 FC 735, [2009] F.C.J. No. 1377; and *Hall v. Canada (Attorney General,* 2011 FC 1431, [2011] F.C.J. No 1806.) And, because the Federal Court reviews decisions of the Board on this interpretative question, the divergence of views at the Federal Court level impacts upon decisions at the Board level.

Frye

[66] *Frye* is the only decision of this Court cited to us that provides an interpretation of the phrase “arose out of or was directly connected with”. It will be useful then to consider the circumstances of that case.

[67] Ms. Frye was the spouse of Corporal Lee Arnold Berger, a career soldier who was deployed in firefighting activities that required him to be “on duty” 24 hours of the day. On the day of his death, he had been fighting fires for 16 hours. That evening, he died from injuries suffered as a result of being struck by a large vehicle as he was walking back to his camp from a late night swim at a nearby lake. Ms. Frye applied for a pension, pursuant to paragraph 21(2)(*b*) of the *Pension Act*, on the basis that her husband’s death resulted from a fatal injury that “arose out of or was directly connected with” his military service.

[68] The Board interpreted the phrase “arose out of or was directly connected with” as requiring the establishment of a direct or immediate causal connection between Corporal Berger’s fatal injury and his military service. It concluded that his fatal injury was directly caused by the truck that struck him and that his recreational activities were not part of his military service.

[69] On judicial review, the Federal Court judge agreed with the Board’s interpretation of the phrase “arose out of or was directly connected with” but held, on a factual basis, that Corporal Berger’s fatal injury was directly connected with his military service.

[70] This Court disagreed with the interpretation of the phrase “arose out of or was directly connected with” that was given by the Board and the Federal Court judge. The Court found that the phrase encompassed two distinct *types* of causal connection, either of which, if established, would satisfy the required causal connection between the decedent’s fatal injury and his or her military service.

[71] The Court agreed that the *type* of connection contemplated by the phrase “directly connected with” was a direct factual connection between the fatal injury and the decedent’s military service. In the circumstances, being struck by the truck was the direct factual cause of Corporal Berger’s fatal injury and that unfortunate event was not directly connected with his military service. As such, the Court agreed with the Board that the “directly connected with” element was not satisfied.

[72] The Court went on to conclude that a different *type* of causal connection between the fatal injury and the decedent’s military service was contemplated by the phrase “arose out of”. In other words, some kind of connection other than a direct or immediate one would be sufficient. While the Court did not offer a specific formulation of this *type* of acceptable non-direct causal connection, it did state that an acceptable causal connection would not extend so far as to include a mere temporal connection, such as simply serving in the armed forces at the time of the fatal injury.

[73] The Court went on to conclude that Corporal Berger’s recreational swimming was, in some fashion, mandated by a military policy that required him to be relaxed, rested and fit for his

continuing firefighting duties. As such, it followed that his engagement in this form of militarily-mandated recreational activity was a part of his military service. Thus, while this activity could not be said to have had a direct causal connection with Corporal Berger's fatal injury (which was directly caused by the truck), the Court nonetheless found that this activity had a non-direct causal connection with his fatal injuries that was sufficient for the Court to conclude that those injuries "arose out of" his military service. In other words, Corporal Berger's militarily-mandated swimming activities were the non-direct cause of his fatal injuries.

[74] In my view, *Frye* stands for the proposition that the causal connection between a fatal injury and the decedent's military service that is required by the phrase "arose out of" in paragraph 21(2)(*b*) of the *Pension Act* can be satisfied by a non-direct causal connection.

Frye is distinguishable

[75] The decision in *Frye* teaches that the causal connection requirements of the phrase "arose out of or was directly connected with" can be satisfied by either of the two *types*: a direct causal connection or a non-direct causal connection. In reaching its decision, in my view, the Court found that Corporal Berger's militarily-mandated recreational swimming activities were the non-direct cause of his fatal injury, and therefore his fatal injury "arose out of" his military service.

[76] In the instant circumstances, the record establishes that both the Military Factors and the Personal Factors have a direct causal connection with Ms. Cole's claimed condition. Thus, unlike *Frye*, which dealt with a single non-direct causal connection between the fatal injury and the

decedent's military service, the issue in this case relates to the interpretation of "directly connected with" in circumstances involving *two* sets of distinct and directly connected causal factors.

Direct connection but multiple causes

[77] It must be recalled that an applicant for a disability pension, pursuant to paragraph 21(2)(*a*) of the *Pension Act*, is required to establish that the claimed condition was causally connected to the applicant's military service.

[78] Thus, where the claimed condition is traceable to two direct causes, the interpretative issue is whether the phrase "directly connected with" requires the applicant to establish that his or her military service is the primary cause of that condition. In the circumstances of this appeal, the issue is whether Ms. Cole must establish that the Military Factors played a larger role in bringing about her major depression than the Personal Factors.

[79] In the present circumstances, this interpretation simply asks whether the Military Factors have a larger causal connection to the claimed condition than the Personal Factors. If the answer is affirmative, then the direct causal connection is established. If the answer is negative, then such connection is not established.

[80] Asked another way, in the circumstances of this appeal, in which both the Military Factors and the Personal Factors have a direct causal connection with the claimed condition, the

question is whether the causal connection requirement in the phrase "directly connected with" can *only* be satisfied if the Military Factors are the larger of those two causes. In my view, the answer to this question is no. Consequently, I am of the view that the primary cause interpretation of the causal connection requirement in the phrase "directly connected with" is incorrect.

Textual, contextual and purposive interpretative analysis

[81] Issues of statutory interpretation regularly arise in income tax cases. In *Mathew v. Canada,* 2005 SCC 55, [2005] 2 S.C.R. 643, the Supreme Court, at paragraphs 42 and 43, provided the following guidance with respect to statutory interpretation:

> [42] There is an abiding principle of interpretation: to determine the intention of the legislator by considering the text, context and purpose of the provisions at issue. This applies to the *Income Tax Act* and the GAAR as much as to any other legislation.
>
> [43] We add this. While it is useful to consider the three elements of statutory interpretation separately to ensure each has received its due, they inevitably intertwine. For example, statutory context involves consideration of the purposes and policy of the provisions examined. And while factors indicating legislative purpose are usefully examined individually, legislative purpose is at the same time the ultimate issue – what the legislator intended.
>
> [Emphasis added]

Textual consideration

[82] The text of the phrase "directly connected with" in paragraph 21(2)(*a*) of the *Pension Act* clearly requires a causal relationship of a factual nature between the applicant's military service and his or her claimed condition. However, it does not stipulate any level or degree of causation.

Accordingly, a textual analysis does not, in and of itself, validate the primary cause interpretation of this phrase.

Contextual consideration

[83] Both subsections 21(1) and (2) of the *Pension Act* permit awards of pensions in respect of deaths, injuries or diseases that arise out of or are directly connected with military service.

[84] As previously noted, paragraphs 21(1)(*a*) and (*b*) of the *Pension Act* apply in respect of wartime or special duty service and embody the so-called insurance principle referred to above. In that regard, some level of causal or temporal connection is required between the affliction and the military service to establish pension entitlement.

[85] In contrast, paragraphs 21(2)(*a*) and (*b*) of the *Pension Act* apply to afflictions arising in peacetime military service in respect of which something less than the full insurance principle applies. In those circumstances, a higher degree of causal nexus between the affliction and the military service is required to establish pension entitlement.

[86] Thus, it may be reasonably concluded that contextually considered, the phrase "directly connected with" is intended to require a higher degree of causal connection between the claimed condition and peacetime military service than that required under subsection 21(1) of the *Pension Act*. However, that contextual comparison does not establish that the primary cause level of causation is necessarily mandated.

Purposive Consideration

[87] In many instances, courts are presented with limited guidance when attempting to ascertain Parliament's purpose in enacting a particular piece of legislation. However, in the present circumstances, the Court is specifically instructed, by section 2 of that Act and section 3 of the *VRAB Act,* as to how the Board and any reviewing court must interpret the provisions of the *Pension Act*.

[88] In my view, these provisions mandate an interpretation of the level of causal connection that is required by the phrase "directly connected with" that will facilitate, rather than impede, the awarding of pensions to members of the armed forces who have been disabled or have died as a result of military service.

[89] The primary cause, and the "but for" test referred to by the Federal Court Judge in paragraph 29 of his reasons, may well be consistent with the level of factual causation that is commonly applied in tort cases. However, adopting that ordinary civil standard of causation, in my view, is inconsistent with the parliamentary admonishments in section 2 of the *Pension Act* and section 3 of the *VRAB Act*.

[90] In my view, a lower level of causal connection than the "but for" test is required by the phrase "directly connected with" in paragraph 21(2)(*a*) of the *Pension Act*. Otherwise, these liberal interpretative admonishments would have no meaning in the circumstances under consideration. It follows, in my view, that an interpretation of the phrase "directly connected

with" that requires that a pension applicant's military service was the primary cause of his or her claimed condition is not only incorrect, but also unreasonable. The following example is illustrative of both the incorrectness and the unreasonableness of the primary cause interpretation.

[91] While recognizing that a condition such as major depression is complex and its causes are difficult to assess, much less with mathematical precision, if Ms. Cole's Personal Factors were determined to have been 51% responsible for her major depression, it would follow that her Military Factors must have been 49% responsible. Thus, the "primary cause" of her claimed condition would not be her military service and her application would be dismissed.

[92] In my view, this result cannot be consistent with the purpose of the *Pension Act*, which is to ensure that our country honours its obligations to the women and men who serve in our armed forces and who have suffered injury, disease or death as a result.

What degree of causation is required to establish a direct causal connection?

[93] At the hearing, counsel for Ms. Cole asserted that any level or degree of causal connection between her claimed condition and her military service would be sufficient. Thus, we were urged to accept that if it could be shown that the Military Factors were 1% responsible for that claimed condition, a sufficient causal connection to ground pension entitlement would exist.

[94] In my view, such a minor degree of causal connection between a claimed condition and an applicant's military service will not be sufficient.

[95] So, what level of causal connection greater than a mere possibility but less than the primary cause will be sufficient, having regard to the purpose that the *Pension Act* is intended to achieve?

[96] In paragraph 35 of his reasons, the Federal Court Judge stated:

> It seems to me that the words "arising out of" and the overall context of the statute call for something more than some nexus or causal connection, and require that military service be the main or prevalent cause of the disease or injury, or at the very least a significant factor. Another way of putting it might be to say the injury or disease would not have occurred but for the military service.
>
> [Emphasis added]

The underlined portion of this passage indicates that the Federal Court Judge at least countenanced an interpretation in which the requisite level of causal connection might be lower than primary cause.

Significant factor

[97] Recognizing that there is no determinative authority on this issue and being mindful of the admonishments in section 2 of the *Pension Act* and section 3 of the *VRAB Act* that the provisions of the *Pension Act* are to be liberally construed and interpreted, I conclude that, for the purposes of establishing entitlement to a disability pension under paragraph 21(2)(*a*) of the *Pension Act* on the basis that the claimed condition was "directly connected with" the applicant's

military service, the applicant must establish only a significant causal connection between the applicant's claimed condition and his or her military service. In other words, a causal connection that is significant but less than primary will be sufficient. Thus, an applicant's military service will provide a sufficient causal connection with his or her claimed condition, such that the claimed condition is "directly connected with" such military service, where he or she establishes that his or her military service was a significant factor in bringing about that claimed condition.

[98] Reverting to my earlier hypothetical, if Military Factors could somehow be demonstrated to have been 49% responsible for Ms. Cole's claimed condition, in my view, those factors would clearly constitute a significant causal connection between her claimed condition and her military service that would be sufficient to establish the level of causal connection required by the phrase "directly connected with" in paragraph 21(2)(*a*) of the *Pension Act*. That said, I am not suggesting that a percentage close to 49% will be required to establish a significant causal connection between the claimed condition and the applicant's military service. Indeed, attempting to quantify levels of factual causation with mathematical precision borders on the theoretical.

[99] The existence of a significant causal connection in the context of an application for a disability pension under paragraph 21(2)(*a*) of the *Pension Act* will be a question of fact. Those with expertise in fact-finding, in my view, will no doubt be able to recognize a significant factor when they see one. Indeed, it may be possible to identify a significant causal connection as simply one that is not insignificant. Moreover, it is not at all clear to me that it will be meaningfully more difficult for fact-finders with expertise to determine the existence of a

significant causative factor than it has been for them to determine the existence of the primary causal factor.

C. Was the Board's primary cause interpretation of the causal connection requirement of the phrase "arose out of or was directly connected with" in paragraph 21(2)(*a*) of the *Pension Act* unreasonable?

[100] As indicated above, it is my view that the Interpretative Issue is to be reviewed on the standard of correctness and I have done so.

[101] In the event that I am incorrect and the standard of review is reasonableness, I am of the view that the Board's primary cause interpretation of the causal connection requirement in the phrase "directly connected with", in paragraph 21(2)(*a*) of the *Pension Act*, is unreasonable.

[102] The Board and the Federal Court Judge undertook no analysis to support the conclusion that the causal connection requirement of the phrase "directly connected with" was the primary cause. At the Federal Court level, the Federal Court Judge referred to his prior decision in *Boisvert* as having decided the question.

[103] In *McLean*, Justice Moldaver teaches that when questions of statutory interpretation are reviewed on a standard of reasonableness, the Court must show deference to and accept *any* reasonable interpretation of the provision adopted by the administrative decision-maker, even if *other* reasonable interpretations exist.

[104] Thus, the question is whether the Board's primary cause interpretation is reasonable. With respect, in my view, it is not.

[105] In answering this question, *McLean* informs that the provision in issue must be construed using the textual, contextual and purposive analysis that is required in any exercise of statutory interpretation. Thus, in this case, the Board's primary cause interpretation will stand unless it is shown to be unreasonable, on the basis of such analysis.

Textual consideration

[106] As indicated previously, the phrase "directly connected with" contemplates a causal connection between the applicant's military service and his or her claimed condition. However, that phrase does not stipulate any particular degree of causal connection. As such, a textual analysis of that phrase does not establish that the primary cause test is unreasonable.

Contextual consideration

[107] The contextual consideration of this phrase that appears in paragraph 86 of these reasons, shows that Parliament intended to establish a higher level of causal connection requirement for subsection 21(2) pensions than for subsection 21(1) pensions. However, this contextual comparison does not signify any particular degree of causal connection for the phrase "directly connected with". As such, a contextual consideration of this phrase does not establish that the primary cause test is unreasonable.

Purposive consideration

[108] As set forth above, Parliament has mandated that a liberal interpretation of the *Pension Act* must be given with a view to ensuring that our country's obligation to members of the armed forces who have been disabled or have died as a result of military service may be fulfilled. In my view, this means that a lower level of causal connection than the ordinary civil standard of the "but for" test was intended by Parliament when it enacted the phrase "directly connected with". It follows, in my view, that in adhering to the primary cause level of causation, the Board unreasonably interpreted the phrase "directly connected with".

[109] My somewhat theoretical example in paragraph 91 of these reasons is a further illustration of the unreasonableness of the primary cause test. This is especially so in circumstances – such as those under consideration in this appeal – involving illnesses, the causes of which are difficult to diagnose with the degree of precision necessary to establish a primary cause.

[110] The significant cause level of causation that I have endorsed provides a flexible approach to the establishment of the requisite causal connection between military service and a claimed condition and is, in my view, fully consistent with the liberal interpretation admonishments contained in section 2 of the *Pension Act* and section 3 of the *VRAB Act*. This flexibility favourably distinguishes the significant cause interpretation from the primary cause interpretation

[111] Accordingly, for these reasons, I am of the view that an interpretation of the phrase "directly connected with" in paragraph 21(2)(*a*) of the *Pension Act* that requires an applicant to establish that his or her military service is the primary cause of his or her claimed condition is unreasonable, and a decision to deny the award of a pension on the basis of such an interpretation is not within the range of reasonable outcomes of the decision-making process under consideration.

D. Did the Board err with respect to the Application of Evidence Issue?

[112] Having concluded that the Board erred in its selection of the primary cause test to determine whether Ms. Cole's claimed condition was sufficiently causally connected to her military service, it is clear that the Board's decision to deny her application for a disability pension cannot stand.

DISPOSITION

[113] For the foregoing reasons, I would allow the appeal, set aside the judgment of the Federal Court Judge, dated March 31, 2014 and return the matter to the Board for re-determination in accordance with these reasons, with costs in the appeal and in the Federal Court.

"C. Michael Ryer"
J.A.

"I agree
Wyman W. Webb J.A."

GAUTHIER J.A. (Concurring Reasons)

[114] I agree with my colleague Ryer J.A. that this appeal should be allowed and the matter returned to the Board for redetermination. However, I wish to comment briefly on some issues.

[115] With respect to the standard of review, I respectfully disagree that correctness is the standard to be applied to the Board's interpretation of paragraph 21(2)(*a*) of the *Pension Act*. As my colleague acknowledges, the Supreme Court has stated that reasonableness is the presumptive standard of review where a tribunal is interpreting its home statute or a statute closely related to its function. While *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 states that reviewing courts may rely on the standard of review articulated in prior jurisprudence which has determined that standard on the proper principles, the Court in *Frye v. Canada (Attorney General)* 2005 FCA 264, [2005] F.C.J. 1316, which applied correctness, did not have the benefit of the Supreme Court's subsequent teaching regarding the strength of the reasonableness presumption. I would add that since *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559 at paragraph 48, we no longer apply old authorities on the standard of review but must instead follow the principles worked out in *Dunsmuir* and later jurisprudence. In view of that more recent jurisprudence, I am not persuaded that the presumption of reasonableness has been rebutted in this case.

[116] However, I agree with my colleague that when one properly applies the purposive and contextual method of statutory interpretation, the range of acceptable outcomes is narrow in the present case.

[117] The interpretation of paragraph 21(2)(*a*) of the *Pension Act* required in this appeal is an extricable question of law. As explained by Ryer J.A., however, it is a narrow question in that it is not about the nature or type of relationship that is required between the injury and the disease and a claimant's military service. Rather, it is to determine when the relationship is sufficient to trigger the application of this provision when multiple factors are involved in the onset or aggravation of an injury or disease.

[118] There is no need to examine if and how the expressions "arose out of", "directly connected with" or "attributable to" in paragraph 21(1)(*a*) differ unless these expressions inform the question before us. In my view, they do not.

[119] It is not disputed that the scheme of the Act applies to an injury or disease that can "arise out" of or, as in this case, be "directly connected to" multiple factors that may or may not all be military service-related. But the wording of the provision before us, read in the overall context of the Act, gives us little indication as to the degree to which the factors that are indeed service-related must have been involved in the onset or aggravation of the disease to trigger the payment of any benefit.

[120] Hence, the purpose of the Act set out in section 2 of the *Pension Act* and section 3 of the *VRAB Act* become particularly important. I agree with Ryer J.A. that considering the number of multiple etiology diseases, particularly psychological and emotional disease where there is no reasonable scientific method of apportioning precisely degrees of causation, it is not possible to

read into paragraph 21(2)(*a*) that compensation is only available if the service-related factors are the primary cause of the disease.

[121] The interpretation offered by Ryer J.A. ensures that the scheme of the Act is not rendered meaningless – insignificant service-related factors cannot be sufficient to trigger the compensation scheme. On the other hand, allowing the mechanism provided by paragraph 21(2)(*a*), when the service-related factors are significant to be triggered, gives effect to Parliament's clear intention that this benefits scheme be liberally construed, so as to ensure that this country's obligation towards members of the forces is met.

[122] The appellant raised a number of other issues directed to the application of this interpretation of paragraph 21(2)(*a)* of the *Pension Act* to the particular facts of this appeal. The panel of the Board which will re-determine this matter is best placed to address these issues.

"Johanne Gauthier"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-226-14

APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE DE MONTIGNY DATED MARCH 31, 2014 NO. T-2006-12

STYLE OF CAUSE:	ANNE COLE v. ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	FEBRUARY 25, 201A
REASONS FOR JUDGMENT BY:	RYER J.A.
CONCURRED IN BY:	WEBB J.A.
CONCURRING REASONS BY:	GAUTHIER J.A.
DATED:	MAY 5, 2015

APPEARANCES:

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