



Administrative Appeals Tribunal

PRESIDENT'S CHAMBERS

The Hon Justice Garry Downes AM

30 May 2007

Mr Terry Fogarty
16 Mann Avenue
NORTHGATE QLD 4013

Dear Mr Fogarty,

I refer to your letter dated 20 May 2007 in which you alerted me to your concerns about possible incorrect application of case law in decisions by the Repatriation Commission, Veterans' Review Board and the Administrative Appeals Tribunal (AAT).


I understand you discussed your concerns with the Assistant Registrar, Sian Leathem, in a telephone discussion earlier today. Ms Leathem informs me that your concerns rest primarily with the Repatriation Commission, although you believe there may be cases in which decisions by individual members of the AAT do not accord with existing case law.

The Tribunal cannot intervene with respect to decisions of the Repatriation Commission other than through appeals to it via the Veterans Review Board and by the influence which its decisions have on Commission decisions generally.

As I am sure you understand, there is no basis upon which I or anyone else in the Tribunal could revisit decisions which have previously been made by the Tribunal. However, parties who are dissatisfied with Tribunal decisions have the right to appeal to the Federal Court of Australia under s44 of the *Administrative Appeals Tribunal Act, 1975* (Cth). Such an appeal is limited to a question of law and should generally be lodged no later than 28 days after receipt of the Tribunal's decision. However, parties have a right to request an extension of time to appeal to the Federal Court if circumstances warrant that course.

The Tribunal has a comprehensive professional development program in which members are kept informed of developments in case law and provided with support and information to assist them in their decision-making role. I do not agree with your assertion that the Tribunal incorrectly applies case law in a significant number of cases. Many appeal decisions simply reflect different opinions as to the law. The number of occasions when judges of the High Court of Australia, our highest Court, do not agree is evidence of this.

Thank you for bringing this matter to my attention.

yours truly


GARRY DOWNES