

Media Report 25 October 2019,

This weeks media reports will cover and answer great questions veterans are asking such as the Veterans Review and Appeal Board Act deals with the rules of evidence, and is often referred to as the “benefit of the doubt” clause.. and local Media Articles.

“benefit of the doubt” clause.

Text version

Section 39 of the Veterans Review and Appeal Board Act deals with the rules of evidence, and is often referred to as the “benefit of the doubt” clause. This is because section 39(c) requires that any doubt, in the weighing of evidence, as to whether the case has been established, be resolved in favour of the applicant. Together, the rules in section 39 ensure that the evidence in support of an application is considered in the best light possible. Board members are required to apply these rules to the facts and evidence of every case.

Plain language explanation

As part of its commitment to provide applicants with clear decisions in plain language, the Board requires Members to explain how they have applied section 39 to the facts and evidence in every case. The following is from our plain language explanation, which appears in every decision:

The Panel has reviewed all of the evidence and has also taken into consideration the Advocate's submissions. In doing so, the Panel has applied the requirements of section 39 of the Veterans Review and Appeal Board Act. [...]

This means that in weighing the evidence before us, the Panel will look at it in the best light possible and resolve doubt so that it benefits the Applicant/Appellant. The Federal Court has confirmed, though, that this law does not relieve applicants/appellants of the burden of proving the facts needed in their cases to link the claimed condition to service. The Board does not have to accept all evidence presented by an Applicant/Appellant if the Board finds that it is not credible, even if it is not contradicted.¹

1 [MacDonald v. Canada \(Attorney General\) 1999, 164 F.T.R. 42](#) at paragraphs 22 & 29; [Canada \(Attorney General\) v. Wannamaker 2007 FCA 126](#) at paragraphs 5 & 6; [Rioux v. Canada \(Attorney General\) 2008 FC 991](#) at paragraph 32.

Federal Court decisions

A number of rulings by the Federal Court have provided the Board direction regarding the benefit of doubt:

In the case of *MacDonald v. Canada (Attorney General)* 1999, the Court stated that "section 39 of the Veterans Review and Appeal Board Act [...] does not mean that the Board must automatically accept whatever submission is made by a veteran; rather, the evidence must be accepted if it is credible and reasonable, and uncontradicted. [...] The jurisprudence indicates that the Board must accept uncontradicted medical evidence that it considers credible in the circumstances; however, it may reject such evidence if it has before it contradictory evidence, or if it states reasons, which would bear on credibility and reasonableness."

In the case of *Canada (Attorney General) v. Wannamaker* 2007, the Court stated that "Section 39 ensures that the evidence in support of a pension application is considered in the best light possible. However, section 39 does not relieve the pension applicant of the burden of proving on a balance of probabilities the facts required to establish entitlement to a pension [...]. Nor does section 39 require the Board to accept all evidence presented by the applicant. The Board is not obliged to accept evidence presented by the applicant if the Board finds that evidence not to be credible, even if the evidence is not contradicted, although the Board may be obliged to explain why it finds evidence not to be credible [...]. Evidence is credible if it is plausible, reliable and logically capable of proving the fact it is intended to prove."

In the case of *Rioux v. Canada (Attorney General)* 2008, the Court stated that "Section 39 of the Act, which requires that the panel resolve any doubt in favour of an applicant, does not relieve the pension applicant of the burden of proving on a balance of probabilities the facts required to establish entitlement to a pension [...]."

In the case of *Schut v. Attorney General of Canada* (2003), the Court stated that "The Applicant argues that all he needed to do in this case was to raise a doubt . . . If such a doubt can be raised, he contends, then s. 39 of the Veterans Review and Appeal Board Act dictates that a finding must be made in the Applicant's favour. But the jurisprudence suggests that s.s. 3 and 39 of the Veterans Review and Appeal Board Act do not relieve the Applicant of the burden of establishing, on a balance of possibilities and with the evidence considered in the best light possible, that the disability is service-related."

In the case of *Tonner v. Canada* (1995), the Court stated that "My reading of section 3 and subsection 10(5) does not lead me to interpret the sections so as to read that whatever submission is made by a veteran, that submission must automatically be accepted by the members of the VRAB. The evidence must be credible and must be reasonable. . . ."

In the case of *Irving v. The Minister of Pensions* (1944), the Court stated that "The doubt must of course be a reasonable doubt and not a strained or fanciful acceptance of remote possibilities."

In the case of King v. Attorney General of Canada (2001), the Court stated that "Section 39 provides that the VRAB must accept all uncontradicted evidence, but this does not mean it must accept all evidence. If the VRAB is of the opinion that the evidence is not credible, it can reject it."

In the case of Elliot v. Canada (Attorney General) (2003), the Court stated that "If the direction to draw every reasonable inference is to have meaning, it must apply in cases where an inference would not be drawn on a balance of probabilities. A reasonable inference is therefore one that is not necessarily probable but must nonetheless be more than a mere possibility."

Remembrance Day Ceremony National Military Cemetery Beechwood – 11 NOV 2019

The Airborne Regiment Association of Canada has been invited to participate in the annual Remembrance Day Ceremony held at the National Military Cemetery (NMC) in Beechwood. Once again, we have been asked to provide a marching contingent (platoon size) of veterans for the ceremony. We would like to extend the invitation to all Paratroopers in the region to join us to honour and remember our fallen comrades.

Since the ceremony at the National Military Cemetery has been growing over the years and is steadily becoming the premier location in the NCR to observe Remembrance Day and honour and remember our fallen comrades the staff would like to know the number of Veterans Guard that will be attending the service as the members on Parade at NMC Beechwood. There is limited space and we need to ensure that I identify space for all that will attend.

Mr David Piedra and his project to cover the 1970 FLQ Crisis.

Project summary:

As yet untitled independent documentary film (i.e. - not affiliated with a media or organization partner) on the experiences of individual members of the military during the 1970 October Crisis. The vision of this project is not to give an overall view of the crisis or to dig in too deeply in the politics of it – rather to tell the stories of CF members who, having trained for conflict overseas found themselves patrolling the streets of Canadian cities in a climate of great uncertainty as to what was unfolding and where events would lead. These experiences will be framed within the current context of terror and the military in the streets of

western countries such as Belgium and France, and the question of “could it happen here” being answered with “It already did “. The film will only frame the 1970 crisis with current events but will not focus on current threats; rather it will focus on individual experiences of the Oct-Dec 1970 period. It's my intention to have the film posted to YouTube in time for the 50th anniversary of the crisis with a running time of 40-90 minutes.

Anyone interested in being a part of this undertaking can get in touch with me directly on social media or my email address

David Piedra [media5toronto@gmail.com].

Stolen Valour policy in both official languages

<https://www.legion.ca/advocating-for-veterans/stolen-valour>

How poppy funds are being used to directly help Veterans.

<https://legion.ca/news/articles/2019/10/22/legion-poppy-funds-helping-veterans-in-need>

Soldiers at Base Gagetown blow up bridge in rare training exercise

CBC News

Soldiers at CFB Gagetown had a chance to put some special skills to use in a rare training exercise recently, when military engineers blew up an old bridge in the training area. Built in 1980, the Malta Bridge was nestled in the Base Gagetown training area and hadn't been used for a few years because it was no longer safe for vehicles to cross. Instead, it gave soldiers a chance to get some technical training. [READ MORE](#)

Exercise Polar Force tests Agile Combat Employment

U.S. Air Force

Exercise Polar Force 20-1, a biannual two-week mission readiness exercise designed to test multiple elements of the Agile Combat Employment concept of operations ended Oct. 10. The exercise allowed Soldiers and Airmen from units across Joint Base Elmendorf-Richardson, Alaska, to develop and strengthen the skills required to operate in austere environments and in adverse situations. [READ MORE](#)

Heron and MQ-9 drones approved for Canadian military program

Ottawa Citizen

The Department of National Defence's Remotely Piloted Aircraft System (RPAS) Project has entered into a new phase with discussions ongoing with two drone manufacturers. The RPAS project entered the definition phase on April 5 and shortly after the federal government determined two qualified suppliers were eligible for the program, Esprit de Corps military magazine reports. [READ MORE](#)

Italy: Thousands evacuated for World War II bomb disposal

Deutsche Welle

Thousands of people had to evacuate their homes in Bolzano, Italy, on Sunday, as experts removed a World War II-era bomb that had been discovered in the city center. Neutralizing the explosive also forced authorities in the northern province of South Tyrol to close down a section of one of Europe's busiest highways. [READ MORE](#)

De nombreux réservistes s'entraînent dans la région

Radio-Canada

Un exercice militaire a lieu dans les municipalités de Larouche et de Saint-Charles-de-Bourget. D'après un communiqué émis par la Défense nationale, près de 120 réservistes ont été invités à s'y joindre pour apprendre à mener des opérations offensives dans un cadre de guerre conventionnelle. [LIRE PLUS](#)

Mind the gap: The Army looks to a new assault bridge for heavy armor maneuvers in Europe

Breaking Defense

For the Army's Armored Brigade Combat Teams (ABCTs), the ability to conduct wet and dry gap crossings over rivers and gullies in both Western and Eastern Europe is not a bridge too far, but a bridge too few. Throughout that area of operation, an advancing army can expect to meet smaller water obstacles every 20 km, large 100-meter-wide water obstacles every 35-60 km, and significant 100-400-meter-wide rivers every 250-400 km. Neither the U.S. nor Europe has a sufficient quantity of bridging systems to address even a small fraction of those obstacles. [READ MORE](#)

Calgarians walk for veterans to raise awareness about PTSD: 'It's not a disability'

Global News

About 100 people walked alongside veterans on the North Glenmore Park pathway in Calgary recently to raise awareness about PTSD and suicide. "What we're trying to do with the walk for veterans is to help the public meet veterans in a non-partisan, non-Remembrance Day kind of way. Just get out and walk with folks, get to understand who veterans are today, how they live within our community and what they do," said Lee Humphrey, a veteran who helped organize the event. [READ MORE](#)

SAS troops almost blown up after ISIS booby-trap dead children's bodies

Mirror

British special forces were almost blown up when Islamic State fighters booby-trapped children's dead bodies with hidden grenades. The small SAS convoy was heading to the Iraqi border in north-eastern Syria when they spotted two children lying by the road and thought they may be alive. [READ MORE](#)

Canadian soldiers allege anti-malaria medication left them with intense rage, suicidal ideations

CTV News

Richard Schumann always wanted to be a soldier. Sitting in his bungalow in Kingston, ON, his eyes light up when sharing his memories of being a child with a dream. “I think I was probably about four or five. It was always a dream of mine to join the military,” he said. [READ MORE](#)

'Whistles, warnings, kaboom!': A day with a landmine clearance team

The Guardian

The rusty tailfin of the mortar round can be seen poking through the roots and mud of a small dirt patch, next to a skull and crossbones sign. Aki Ra thinks the bomb could have been lying in rural Siem Reap, Cambodia, for 40 years. If it hadn't been found, it may have added another death to the approximately 20,000 people killed by explosives laid in the country from the late 1960s to the 1990s. [READ MORE](#)

Vigil honours soldiers killed in Canada in non-combat roles

Victoria News

For the sixth year in a row, Bob Collins began standing at attention at the Cobble Hill Cenotaph at exactly 6:56 a.m. Pacific time on Oct. 22. That's the time and date in 2014 when Corporal Nathan Cirillo was shot in the back and killed as he stood ceremonial guard at the National War Memorial in Ottawa. [READ MORE](#)