

Office of the Commissioner  
of Review Tribunals  
Canada Pension Plan/  
Old Age Security



Bureau du Commissaire  
des tribunaux de révision  
Régime de pensions du Canada/  
Sécurité de la vieillesse

**COPY**

Mr. Stéphane Hébert  
212-349 Queenston Street  
St. Catharines ON L2P 2Y1

**Registered Mail**

Appeal #: 105613

Dear Mr. Hébert,

**Subject: Decision of the Review Tribunal  
CPP - Disability Pension**

RECEIVED JUL 26 2010

JUL 23 2010

The Review Tribunal has made a decision on your appeal. We have enclosed a copy of the Review Tribunal's decision.

**What if someone does not agree with the decision?**

Any party in this appeal who does not agree with the Review Tribunal's decision can ask for an appeal to the Pension Appeals Board (PAB). This includes you and the Department of Human Resources and Skills Development Canada (HRSDC). Parties have 90 days to appeal.

**Will I receive a Disability Pension if there is no appeal to the PAB?**

You are eligible for a Disability Pension as decided by the Review Tribunal if neither you nor HRSDC appeals to the PAB.

**When will I receive my Disability Pension payment?**

We, the Office of the Commissioner of Review Tribunals, do not calculate the amount of the benefit or issue payment. This is done by HRSDC. If you have any questions about the amount of your benefit or when you can expect payment, please call HRSDC free of charge at **1-800-277-9914** after 90 days.

.../2

**Questions?**

If you have any questions about the decision of the Review Tribunal, please call our Office free of charge at **1-800-363-0076**.

Sincerely,



Nancy LePitre  
Director, Tribunal Operations and Communications

cc: Vadim Kats  
Landy Marr Kats LLP  
900-2 Sheppard Avenue East  
Toronto ON M2N 5Y7

Enclosure(s):

- Decision of the Review Tribunal
- Blue sheet: Information on the Pension Appeals Board
- Application for Leave to Appeal to the Pension Appeals Board



**Decision of the Review Tribunal**

Appeal #: 105613

**JUL 23 2010**

On May 18, 2010 in St. Catharines, Ontario, a Review Tribunal heard an appeal under subsection 82 (1) of the *Canada Pension Plan* between:

Stéphane Hébert

Appellant

and

the Minister of Human Resources and Skills Development

Respondent

The appeal was heard before the following three panel members:

Lawrence Kroeker

Paul Gilmore

Ruth Matthews

The decision of the Review Tribunal is to **allow** the appeal.

The reasons for this decision are as follows:

**Appearances**

[1] The Appellant, Mr. Stéphane Hébert, was present at the hearing. He was represented by Mr. Vadim Kats. He was accompanied by his wife, Line de Grace, who did not give evidence. The Respondent, the Minister of Human Resources and Skills Development, was represented by Mr. Keith Veige.

### **Documents Submitted at the Hearing**

[2] The Appellant submitted the following documents at the hearing:

A-1 Psychiatric Assessment, Veterans Affairs Canada, July 28, 2008.

A-2 Sarajevo (former Yugoslavia) Commendation Citation, September 25, 2003.

A-3 Discharge Summary, Homewood Health Centre, Guelph, ON, March 2, 2010.

A-4 Medical report and EMG Report from Dr. D. L. Chew, December 6, 2009.

### **Preliminary Matters**

[3] Mr. Kats requested permission to interview by telephone the Appellant's Family Physician, Dr. Balhous, as a witness.

### **Introduction**

[4] The Appellant suffers from post-traumatic stress disorder (PTSD) with anxiety and panic attacks. He has had a history of drug addiction and alcoholism. He applied for a disability benefit under the *Canada Pension Plan* (CPP) on June 5, 2008. The Respondent denied his application because he did not fully meet the requirements for a disability benefit. The Appellant's request for reconsideration was denied on the basis that he was not disabled. The Appellant's appeal was received by the Office of the Commissioner of Review Tribunals on April 14, 2009. The Appellant indicates in his application for benefits that he could no longer work as of July 24, 2007 (Case Book, page 31).

## **Issues**

[5] The Review Tribunal found and the parties agreed that the Appellant's Minimum Qualifying Period (MQP) ended on December 31, 2009. This means to be eligible to receive CPP disability benefits, the Appellant must establish that he has a severe and prolonged disability as those terms are defined in the CPP legislation as of December 31, 2009.

[6] If the appeal is allowed, the Review Tribunal is also charged with determining the month and year in which the disability pension is payable.

## **Evidence**

[7] The Appellant was 43 years of age at the time of the hearing. He has a general grade 12 education and has attempted university courses, but had to withdraw because of health issues.

[8] In his opening statement, Mr. Kats said his client is suffering from post-traumatic stress disorder, low back pain and hearing loss. He was a member of the Canadian Armed Forces (joining in September 1985) and in 1992 was posted for a 6-month tour of duty in Sarajevo in the former Yugoslavia. He has had a medical discharge (2007) and received a Veterans Affairs pension. With regard to the Appellant's major health issue, Mr. Kats says that when Mr. Hébert is under treatment and care in hospital, he shows recovery, but when he is discharged, he reverts to his old ways.

[9] Mr. Kats then requested that the Family Physician, Dr. Balhous, be allowed to testify by telephone. The doctor was connected and confirmed to tell the truth by the Review Tribunal Chair. Dr. Balhous verified that he was a 1990 graduate in medicine and that he practiced in Italy and Saudi Arabia before coming to Canada in 2005. He has been the Family Physician to the Appellant since 2007.

[10] Dr. Balhous testified that the Appellant has had rehabilitation treatment at the Parkwood Hospital in London since 2007 and at Homewood Health Centre in Guelph in 2010. He is sometimes better and sometimes has a poor response. His recurring problem is the anger he develops with the remembrances of the war in Bosnia. Questioned on his file evidence as to whether the Appellant can go back to work, Dr. Balhous replied "Not ... for sure." Asked also as to the cause of the PTSD in his patient, Dr. Balhous replied that it was the exposure to stress under war conditions as a soldier in July 1992.

[11] The Appellant was then affirmed to tell the truth and was questioned by Mr. Kats. The Appellant responded to questions about his early life in that he was born in New Brunswick and completed grade 12 in high school there. His first work was as a peat moss worker for his father and also in a grocery store. He currently lives with his wife and daughter in an apartment in St. Catharines.

[12] The Appellant joined the army infantry in 1985 and advanced rapidly to rank of Corporal and then Master Corporal. He went to Germany as a patrol leader (12 men) and then on to Sarajevo. In a patrol of the airport, he and his unit encountered a very severe and chaotic attack. He did not know if he killed anyone. He suffers reoccurrences of the hyper vigilance of this operation. The Canadian Forces deployment to Sarajevo concluded in October 1992 and the Appellant returned to Germany and then to Quebec City.

[13] The Appellant's first personal signs of PTSD occurred while playing hockey (back in Canada) where the Appellant was aggressive in a fight during the game and injured the other person. He was disciplined by the army and received no promotion for two years.

[14] In the intervening 18 years, there has been no recognition about the flashbacks and nightmares (by the Armed Forces). The Appellant has "never stopped the need for help."

[15] The Appellant received a medical discharge in 2007 for reason of the PTSD and dependence on alcohol and cocaine. He has had two right knee surgeries and one left knee surgery. He says his elbows are "gone" and has had recent diagnosis of bilateral carpal tunnel syndrome. These he attributes to harsh training and "rucksack" running (long forced runs carrying all necessary gear). He also had a hearing loss from being close to firing of heavy guns.

[16] The Appellant is overwhelmed by his problems and can't cope anymore. It is hard to wake up after a poor night's sleep. He takes a lot of prescriptions, not knowing what all they are doing to him, and is working hard to make a recovery. He saw his family physician last in January 2010, spoke to him on the telephone in March and will see him in June 2010. He has spent two months at the Homewood Health Centre for treatment of substance abuse and Trauma Safety - January 5 to March 2, 2010.

[17] The Appellant has been approved and receives a veteran's pension. He has not had any work since leaving the army, nor any training sessions. His wife works part-time and maintains the apartment as well as doing the laundry. Grocery shopping is done together as the Appellant requires the shopping cart to stabilize his walking.

[18] A Tribunal member asked about the five service medals he was wearing and the reference to "client notes" on page 175 of the Case Book where the Appellant had good feelings about painting the apartment and buying a palm tree. It was noted that the apartment is 900 square feet and that the process took some time and he had help. The Appellant doesn't drive a vehicle.

[19] From the telephone interview, Dr. Balhous gave the Appellant's current medications as:

Effexor XR (2.25 mg/day) - an antidepressant;

Wellbutrin (300 mg) - an antidepressant and smoking deterrent;

Topamax (300 mg) – anti-migraine, alcohol dependence and depression;  
risperidone (4.5 mg) – for schizophrenia and a depression antipsychotic; and  
Pariet - duodenal ulcers, gastroesophageal reflux disease (GERD).

[20] This list has changed and grown from what was originally prescribed on the application medical report in October 2007.

[21] Questioned about why he left the army for 6 years (1996-2002), the Appellant said he had asked for help from the army for PTSD and addictions, so he left because of the shame. He said he wasn't aware of his serious problems. In the 6 year interval, he was involved in a reserve unit (militia), then with help of his brother, rejoined the army.

[22] The Appellant says that he is slowly managing his panic feelings such as startle effect when someone approaches quickly, and the angry outbursts.

[23] He feels he needs more help before he can consider part-time or full-time work. He did try to drive a taxi cab in St. Catharines in 2007, but only lasted one day as he was having difficulty holding the steering wheel.

[24] The Appellant has stopped smoking, and does not drink beer or coffee. However, he is still working on alcohol, cannabis and cocaine cessation, as evidenced by recent inpatient care.

[25] At this point, Mr. Kats wished to submit four pages of medical reporting on a carpal tunnel syndrome exam prepared on December 9 and 16, 2009 by Dr. Chew. After a short recess, the Minister's representative agreed to the submission and then also the Review Tribunal Chair.

[26] The final comments by the Appellant were about the past seven years that he has been fighting for the understanding of his PTSD.

## Submissions

[27] In his closing remarks, Mr. Kats used the *Villani v. Canada (Attorney General)*, 2001 FCA 248 case as his law support for his client's disability claim. He said that this case was based on the Appellant's education, past work and life experiences and that this was a key case for causal factors in applying for a disability pension.

[28] For medical evidence, he referred to Dr. Richardson's clinical report (Case Book, page 142) where he documents his fourteen month experience with the Appellant at the Parkwood Hospital Operational Stress Injury Clinic in London from September 2008 to November 2009. Dr. Richardson says in his letter that during this time the Appellant has been incapable of regularly pursuing any substantially gainful occupation. Further the Appellant is scheduled and has completed an inpatient treatment program at Homewood.

[29] Mr. Kats stated that while at Homewood the Appellant is within a group of people helping him, but when at his home, he is on his own and regresses.

[30] He referred to a report by Dr. Balhous (Case Book, page 128) setting out the diagnosis and general limitations. The telephone interview gave evidence of the likelihood of the Appellant going back to work as "not great."

[31] Mr. Kats also referred to an evaluation for sleep apnea by Dr. Alexander (Case Book, page 133) where the Appellant was diagnosed with chronic obstructive airways and symptomatology of obstructive sleep apnea. Dr. Alexander was also concerned about the Appellant operating a motor vehicle until assessment and treatment is carried out.

[32] Mr. Kats stated that PTSD has only been recently recognized as a disorder. He referred to another report by Dr. Richardson (Case Book, page 102) where the Appellant's diagnosis, medication and psychiatric rating scales were listed.

[33] Mr Kats' final medical reference is from Flight Surgeon Hanley (Case Book, page 121) who reported his examination of the Appellant in April 2006. Mr Kats stressed the wording of the middle paragraph where Dr. Hanley listed the multiple symptoms the Appellant was portraying.

[34] In conclusion, Mr. Kats said that on a balance of probability his client can't pursue work due to not being able to utilize his education, past work and life experiences.

[35] Mr. Veige, the Minister's representative, told the Review Tribunal that they have Human Resources and Skills Development Canada (HRSDC) explanation material. He said that no medical document has indicated that the Appellant can't work. Further, he said that there is a surgical procedure for correcting carpal tunnel syndrome and he said there were no medical documents regarding the Appellant's knee, elbow or low back distresses. And he said that the Appellant's 6% hearing loss was due to tinnitus. He closed by saying that suitable work was not counter-indicated.

### **Analysis**

[36] The Appellant must satisfy the Review Tribunal, on a balance of probabilities, that his disability was as of December 31, 2009 both "severe" and "prolonged" as defined under subparagraphs (i) and (ii) of paragraph 42(2)(a) of the *Canada Pension Plan*.

[37] The main disability is the disrupted mental capacity of the Appellant which is compounded by depression and until recently alcohol and/or marijuana and cocaine abuse.

[38] The Appellant has had significant inpatient and outpatient treatment sessions. In the latest discharge report he expressed to the therapist he would prefer to be in the company of his wife and daughter during his treatment (page 2 of Homewood Health Centre Discharge Summary, Exhibit A-3). Also, in this report, it is recommended that he

would benefit more from individual therapy over a longer period of time where greater trust could be established with his caregivers. There is also a suggestion that attending the Operational Stress Injury Clinic with his peers would be helpful.

### **Severe Criterion**

[39] The Review Tribunal paid particular attention to the comprehensive psychological and psychiatric reporting of:

- a) Stephen Pinset, Operational Trauma, Stress and Support Centre, CFB Gagetown, August 2003 (Case Book, page 121).
- b) Flight Surgeon Hanley, National Defence, April 2006 (Case Book, page 121).
- c) Dr. Evans, Bellwood Health Services, Scarborough, May 2006 (Case Book, page 71).
- d) Dr. Cooney, Bellwood, June 4, 2008 and June 18, 2008 (Case Book, pages 79 and 80).
- e) Dr. Richardson for Veterans Affairs Canada, July 2008 (Exhibit A-1).
- f) Dr. Richardson, Parkwood Operational Stress Injury Clinic, St. Joseph's Hospital, London, September 2008 (Case Book, pages 90-97).
- g) Dr. Zarins and Staff, Homewood Health Centre, Guelph, March 2010 (Exhibit A-3).

[40] As stated under the "Issues" section of this decision, the Appellant must be found disabled no later than the MQP date of December 31, 2009. From the testimony evidence and the medical evidence it is apparent that the Appellant was disabled before that time.

[41] The Appellant did not wish to isolate himself from his community and attempted to drive a taxi cab soon after he moved to St. Catharines in 2007. He gave it up that first day as he was physically unable to manage turning the steering wheel. This was evidence of an effort to participate and possibly work in the community.

[42] Dr. Richardson in his November 2009 clinical report to Mr. Kats, said that he has been the treating psychiatrist for the Appellant for more than a year. During that time, despite having made significant gains with medication and psychotherapy, his patient continues to struggle. He considered the clinical symptoms have been such as to cause the Appellant to be "incapable of regularly pursuing any substantially gainful occupation."

[43] In a response to Review Tribunal questions during the presenting of evidence, Mr. Kats summarized about why the psychiatric therapy was taking so long, and referred to the fact that while an inpatient, the Appellant would make progress with his condition. However, on returning to his home he would regress.

[44] The Parkwood Clinic assessment made on the Appellant during his September 2008 stay, stated under the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (SDM-IV) format, that the Appellant had an Axis 1 - a) chronic PTSD, b) major depression severe, c) alcohol and cocaine/cannabis dependence. The Axis V, a Global Assessment of Functioning (GAF), was 40 (Case Book page 95). This indicates that the Appellant would have serious impairment in service and occupational functioning. The rating is borderline to possible major impairment in areas such as work, family relations, judgement, thinking, and mood.

[45] When the Appellant goes grocery shopping with his wife, he needs the shopping cart to stabilize his walking. He has several physical distresses with his low back, knees (from frequent parachute jumps) and wrists (carpal tunnel syndrome). These hurts are much less severe than the mental disability and appear amenable to intervention and rehabilitation as minimal evidence was presented. There is also the issue of sleep deprivation due to the nightmares and sleep apnea. The Appellant does have a C-PAP machine (an oxygen supplying and breathing assist machine), but has difficulty in keeping the mask on his face which reduces the usage and sleep benefits.

[46] The reports also repeat the extreme stress of the PTSD and depression diagnosis where panic attacks and sleep deprivation are interchanged with mood swings and anger. While there has been only one written statement that the Appellant is "incapable of regularly pursuing any substantially gainful occupation" by Dr. Richardson, November 2009 (Case Book, page 142), there are no comments about taking retraining or looking for work. The Review Tribunal finds that this disability is severe.

[47] The reports are quite consistent in content and indicate the Appellant's disability is longstanding with the year 1998 identified as the time when his symptoms initialized.

[48] The Appellant, in his testimony, felt his first signs of having PTSD were in late 1992.

[49] The Appellant takes three medications for depression, and also medications for migraines, a breathing deficit and excessive stomach acid.

[50] The Review Tribunal considers the Appellant's mental condition to be severe.

### **Prolonged Criterion**

[51] Initial formal treatment for the Appellant's mental illness began at Bellwood Health Services in April 2006. He was an inpatient again in March and June 2008. Care had been suspended and the Appellant discharged several times because of suspected usage of narcotics as identified in urine testing.

[52] The Appellant then attended the Parkwood Stress Injury Clinic in September 2008, again January 2009, and February 2009. His most recent inpatient care has been at Homewood in January 2010.

[53] The Appellant has had ongoing therapy in hospital settings for over two years and in between this care has participated in small group therapy sessions with other similarly affected veterans.

[54] The Appellant continues to take three medications for depression.

[55] The Review Tribunal notes that treatment for the Appellant is ongoing and of indefinite duration, as there have been no favourable prognoses offered.

[56] The Review Tribunal accepts the mental disability as prolonged.

### **Conclusion**

[57] The Review Tribunal finds that the Appellant has a severe and prolonged mental disability as defined under the *Canada Pension Plan* and that such disability existed as of December 31, 2009, the end of the Appellant's MQP. On the evidence before the Review Tribunal, we are in agreement that the Appellant was suffering this disability at a severe and prolonged level in July 2007 when he was given a medical discharge from the Canadian Armed Forces, and we consider this to be the deemed date of disability.

[58] Section 69 of the *Canada Pension Plan* provides that where a disability person is approved, the pension is payable commencing with the fourth month following the month in which the Appellant is deemed disabled. The Appellant is to commence receiving payment effective the month of November 2007.

[59] The appeal is allowed.

PENSION APPEALS BOARD

Canada Pension Plan



COMMISSION D'APPEL DES PENSIONS

Régime de pensions du Canada

## INFORMATION ON THE PENSION APPEALS BOARD

The Pension Appeals Board is an administrative tribunal. It is the third level of appeal for Canada Pension Plan Applicants. The Pension Appeals Board is responsible for hearing appeals which arise from the decisions of the Review Tribunals of the Office of the Commissioner. **It is important to note that the Minister of Human Resources and Skills Development can appeal a Review Tribunal decision to the Pension Appeals Board, as can claimants.**

The Pension Appeals Board is independent from the Department of Human Resources and Skills Development Canada. Members of the Pension Appeals Board are provincial superior court judges or former judges and are appointed by Order in Council. Members include a Chairman and Vice-Chairman. An appeal to the Pension Appeals Board shall be heard by either one, three or five Members. Usually three Members hear each case.

## APPLICATIONS TO THE PENSION APPEALS BOARD

Unlike the first two levels in the appeals process, hearings at the Pension Appeals Board are not automatic. Claimants must request "leave to appeal" (permission to appeal) by **writing** to the Pension Appeals Board **within 90 days** after receiving the Review Tribunal decision letter. Every request should include the following:

- the claimant's name, address and social insurance number;
- the date of the Review Tribunal decision and the location of the hearing;
- the date the Review Tribunal decision was received;
- a detailed explanation of why the claimant is requesting leave to appeal;

- the facts which support the appeal;
- any *new* medical or other information that could affect the appeal and
- the name and address of the claimant's representative, if there is one.

**Claimants are responsible for providing all information required to support the appeal.**

Using the documents which are received, and without the presence of any parties, one Member of the Pension Appeals Board will decide whether the appeal should be heard. The Pension Appeals Board will write to claimants and the Department of Human Resources and Skills Development Canada to tell them whether or not leave to appeal is granted. If the Board decides not to hear an appeal, the Review Tribunal decision is final and binding. If the Board decides to hear an appeal, it will schedule a hearing.

## **HEARINGS**

Hearings are held in major cities across Canada and are open to the public. Claimants and the Department of Human Resources and Skills Development Canada will have an opportunity at the hearing to present their cases. Appeals heard by the Pension Appeals Board are by way of a new hearing.

Time is available at each hearing for claimants to express their situation in their own words. Interpretation services are provided, if they are going to be used. Staff in the office can assist you in deciding if you really need interpretation services.

Legal counsel and appropriate expert witnesses always represent the Minister of Human Resources and Skills Development at these hearings. The claimant may also have legal counsel or a representative of their choice. However, a claimant does not need to be represented. Most claimants present their own cases.

The Members of the Board and the Registrars will make certain claimants understand each step of the hearing, and have every opportunity to present their cases. If you plan to be represented please let us know. The Board will not share information with a lawyer or representative unless we receive written authorization from you.

Minimal legal costs may be covered if the claimant is granted benefits. Minimal legal costs are also covered for the claimant when the Minister appeals a decision. Minimal refers to costs for the day(s) of the hearing; \$200 for a half day and \$300 for a full day.

All reasonable traveling and living costs are covered for all claimants. For assistance in obtaining information on the kinds of costs which are covered please call our toll free line at 1.888.640.8001.

The length of time it takes to go through this level of appeal varies by province. Claimants can expect to wait approximately two months before "leave" is granted or refused and one year or less before the case is heard. During this time claimants should be gathering any additional evidence needed for their cases. Unfortunately too many claimants are asking for adjournments at the last minute because they are not ready to proceed with the hearing date. **Claimants should let the Board know well in advance if a new hearing date is needed.**

Reminder: Claimants should provide new information as soon as it becomes available. Claimants should send any **new** information to the **Pension Appeals Board** at least **two weeks before** their hearing. Claimants who submit new information at their hearing should bring **five** copies with them. Last minute submissions are discouraged because everyone needs time to consider the material in advance of the hearing. If information is provided too close to a hearing there is a risk of adjournment.

## **DECISIONS**

The Pension Appeals Board is required by law to prepare written reasons for its decisions. These are sent by the Registrar of the Pension Appeals Board to the parties to the appeal by registered mail or priority courier.

Pension Appeals Board decisions are posted on the Internet at: [www.pab-cap.gc.ca](http://www.pab-cap.gc.ca). In order to protect the privacy of claimants, decisions posted on the internet use initials rather than full names of claimants.

Decisions made by the Pension Appeals Board may be further reviewed by the Federal Courts. Questions regarding a judicial review by the Federal Courts should be directed to the Federal Court Registrar in each province.

## HOW TO GET MORE INFORMATION ON THE PENSION APPEALS BOARD

For information on a specific case please contact the **Pension Appeals Board** at no charge by telephone.

Telephone: **1.888.640.8001 Toll Free**

Fax: **613.995.6834**

Email to: [info@pab-cap.gc.ca](mailto:info@pab-cap.gc.ca)

Write: **P.O. Box 8567  
Station "T"  
Ottawa ON K1G 3H9**

The office staff is available to help everyone with any questions. During the day (8:00 a.m. to 4:00 p.m. Eastern Time Zone) your call will be answered by a "live person". Messages after working hours will be returned the next business day.

January 2009



**Pension Appeals Board**

**Rules of Procedure  
(Benefits)**

**under the Canada Pension Plan**

**C.R.C. 1978, c. 390**

**and amended by**

**P.C. 1990-2493 SOR/90-811**

**P.C. 1991-2463 SOR/92-18**

**P.C. 1996-1839 SOR/96-524**

**Règles de procédure de la**

**Commission d'appel des pensions  
(prestations)**

**éditées en vertu du Régime de  
pensions du Canada**

**C.R.C. 1978, c. 390**

**modifiées par**

**C.P. 1990-2493 DORS/90-811**

**C.P. 1991-2463 DORS/92-18**

**C.P. 1996-1839 DORS/96-524**



**Rules Of Procedure Of The Pension Appeals Board For Appeals Under Section 83 Of The Canada Pension Plan**

**Règles De Procédure De La Commission D'appel Des Pensions Régissant Les Appels Interjetés En Vertu De L'article 83 Du Régime De Pensions Du Canada**

*SHORT TITLE*

*TITRE ABRÉGÉ*

1. These Rules may be cited as the *Pension Appeals Board Rules of Procedure (Benefits)*.

1. Les présentes règles peuvent être citées sous le titre : *Règles de procédure de la Commission d'appel des pensions (prestations)*.

*INTERPRETATION*

*DÉFINITIONS*

2. In these Rules,

2. Les définitions qui suivent s'appliquent aux présentes règles.

"Act" means the Canada Pension Plan; ( Loi )

«appellant» La personne qui demande, en vertu du paragraphe 83(1) de la Loi, l'autorisation d'interjeter appel ou la prorogation du délai imparti pour demander cette autorisation, ou l'organisme visé à l'article 74 du Règlement sur le Régime de pensions du Canada qui présente une telle demande. ( appellant )

"appellant" means a person, or an agency referred to in section 74 of the Canada Pension Plan Regulations, who makes an application under subsection 83(1) of the Act for leave to appeal or for an extension of time within which to apply for leave to appeal; ( appellant )

«commissaire» Le commissaire des tribunaux de révision nommé en vertu du paragraphe 82(5) de la Loi. (Commissioner)

"Board" means the Pension Appeals Board; ( Commission )

«Commission» La Commission d'appel des pensions. (Board)

"Chairman" means the Chairman of the Board who is appointed under subsection 83(5) of the Act; ( président )

«directeur» [Abrogée, DORS/96-524, art. 1]

"Commissioner" means the Commissioner of Review Tribunals who is appointed under subsection 82(5) of the Act; ( commissaire )

«Loi» Le Régime de pensions du Canada. ( Act )

"Director" [Repealed, SOR/96-524, s. 1]

«ministre» Le ministre des ressources humaines et développement des compétences. ( Minister )

"interested party" [Repealed, SOR/96-524, s. 1]

«partie» L'appellant ou l'intimé qui étaient parties à la procédure devant le tribunal de révision qui a rendu la décision portée en appel devant la Commission. La présente définition comprend toute personne mise en cause en vertu du paragraphe 83(10) de la Loi. ( party )

"Minister" means the Minister of Human Resources and Skills Development; ( ministre )

«partie intéressée» [Abrogée, DORS/96-524, art. 1]

"party" means the appellant or the respondent who was a party to the proceedings before a Review Tribunal that rendered a decision appealed to the Board, and includes any person added as a party under subsection 83(10) of the Act; ( partie )

«président» Le président de la Commission nommé en vertu du paragraphe 83(5) de la Loi. ( Chairman )

"Registrar" means the Registrar of the Board; ( registraire )

"Vice-Chairman" means the Vice-Chairman of the Board who is appointed under subsection 83(5) of the Act. (vice-président) SOR/90-811, s. 2; SOR/92-18, s. 1; SOR/96-524, s. 1; SOR/2000-133, s. 7.

#### *APPLICATION*

3. These Rules apply to appeals brought pursuant to section 83 of the Act. SOR/90-811, s. 3.

#### *APPLICATION FOR LEAVE TO APPEAL*

4. An appeal from a decision of a Review Tribunal shall be commenced by serving on the Chairman or Vice-Chairman an application for leave to appeal, which shall be substantially in the form set out in Schedule I and shall contain

- (a) the date of the decision of the Review Tribunal, the name of the place at which the decision was rendered and the date on which the decision was communicated to the appellant;
- (b) the full name and postal address of the appellant;
- (c) the name of an agent or representative, if any, on whom service of documents may be made, and his full postal address;
- (d) the grounds upon which the appellant relies to obtain leave to appeal; and
- (e) a statement of the allegations of fact, including any reference to the statutory provisions and constitutional provisions, reasons the appellant intends to submit and documentary evidence the appellant intends to rely on in support of the appeal. SOR/92-18, s. 2; SOR/96-524, s. 2.

#### *EXTENSION OF TIME*

5. An application for an extension of time within which to apply for leave to appeal a decision of a Review Tribunal shall be served on the Chairman or Vice-Chairman and shall set out the information required by paragraphs 4(a) to (e) and the grounds on which the extension is sought. SOR/92-18, s. 3.

«registraire» Le registraire de la Commission. ( Registrar )

«vice-président» Le vice-président de la Commission nommé en vertu du paragraphe 83(5) de la Loi. ( Vice-Chairman ) DORS/90-811, art. 2; DORS/92-18, art. 1; DORS/96-524, art. 1; DORS/2000-133, art. 7.

#### *APPLICATION*

3. Les présentes règles régissent les appels interjetés en vertu de l'article 83 de la Loi. DORS/90-811, art. 3.

#### *DEMANDE D'AUTORISATION D'INTERJETER APPEL*

4. L'appel de la décision d'un tribunal de révision est interjeté par la signification au président ou au vice-président d'une demande d'autorisation d'interjeter appel, conforme en substance à l'annexe I, qui indique :

- a) la date de la décision du tribunal de révision, le nom de l'endroit où cette décision a été rendue et la date à laquelle la décision a été transmise à l'appellant;
- b) les nom et prénoms ainsi que l'adresse postale complète de l'appellant;
- c) le cas échéant, le nom et l'adresse postale complète d'un mandataire ou d'un représentant auquel des documents peuvent être signifiés;
- d) les motifs invoqués pour obtenir l'autorisation d'interjeter appel; et
- e) un exposé des faits allégués, y compris tout renvoi aux dispositions législatives et constitutionnelles, les motifs que l'appellant entend invoquer ainsi que les preuves documentaires qu'il entend présenter à l'appui de l'appel. DORS/92-18, art. 2; DORS/96-524, art. 2.

#### *PROROGATION DU DÉLAI*

5. La demande de prorogation du délai imparti pour demander l'autorisation d'interjeter appel de la décision d'un tribunal de révision est signifiée au président ou au vice-président et contient les renseignements visés aux alinéas 4a) à e) et un exposé des motifs sur lesquels elle est fondée. DORS/92-18, art. 3.

## MAKING OF APPLICATIONS

6. (1) An application under section 4 or 5 shall be made either by the appellant, on the appellant's own behalf, or in the name of the appellant by a representative, whose authority shall be indicated by the representative.

(2) An application served on the Chairman or Vice-Chairman pursuant to section 4 may be deemed by the Chairman or Vice-Chairman to be an application properly made for the purpose of section 5. SOR/92-18, s. 3.

## DISPOSITION OF APPLICATIONS

7. An application under section 4 or 5 shall be disposed of *ex parte*, unless the Chairman or Vice-Chairman otherwise directs. SOR/92-18, s. 3.

## INFORMATION

8. (1) On receipt of an application for leave to appeal a decision of a Review Tribunal, the Registrar shall notify the Commissioner in writing that such an application has been filed.

(2) The Commissioner, after receiving a notification under subsection (1), shall provide to the Registrar, before the end of the third working day following the day on which the notification was received, the following:

(a) the names and addresses of the parties to the proceedings before the Review Tribunal;

(b) the decision of the Review Tribunal and the reasons therefor; and

(c) the documentary evidence that was filed with the Review Tribunal. SOR/92-18, s. 3.

9. (1) The Chairman or Vice-Chairman may request the appellant or any party to produce documents or information required for the purpose of the granting or refusal of leave to appeal or an extension of time within which to apply for leave to appeal.

(2) The appellant may produce documents that the appellant considers useful in support of the application under section 4

## PRÉSENTATION DES DEMANDES

6. (1) La demande visée aux articles 4 ou 5 est présentée soit par l'appelant soit par son représentant, auquel cas le mandat de celui-ci y est précisé.

(2) La demande signifiée au président ou au vice-président conformément à l'article 4 est, si le président ou le vice-président en décide ainsi, réputée être une demande dûment présentée selon l'article 5. DORS/92-18, art. 3.

## RÈGLEMENT DES DEMANDES

7. Il est statué *ex parte* sur les demandes visées aux articles 4 ou 5, à moins que le président ou le vice-président n'en décide autrement. DORS/92-18, art. 3.

## RENSEIGNEMENTS

8. (1) Sur réception d'une demande d'autorisation d'interjeter appel de la décision d'un tribunal de révision, le registraire avise par écrit le commissaire du dépôt de la demande.

(2) Après avoir reçu l'avis mentionné au paragraphe (1), le commissaire fournit au registraire, avant la fin du troisième jour ouvrable qui suit la date de réception de l'avis, les renseignements suivants :

a) les nom et adresse des parties aux procédures devant le tribunal de révision;

b) la décision du tribunal de révision et les motifs à l'appui;

c) la preuve documentaire déposée auprès du tribunal de révision. DORS/92-18, art. 3.

9. (1) Le président ou le vice-président peut demander à l'appelant ou à toute partie de produire les documents ou les renseignements dont il a besoin pour décider d'accorder ou de refuser la demande d'autorisation d'interjeter appel ou de prorogation du délai imparti pour demander cette autorisation.

(2) L'appelant peut, à l'appui de sa demande aux termes des articles 4 ou 5, produire tout document qu'il juge utile.

*APPEALS*

*APPEL*

10. (1) Where leave to appeal is granted, the Registrar shall forthwith notify every party, in writing, of the granting of leave to appeal and send to every such party, other than the appellant, a copy of the notice of appeal together with a copy of any documents submitted in support of the appeal.

10. (1) Si l'autorisation d'interjeter appel est accordée, le registraire en informe aussitôt par écrit chaque partie et envoie à telle partie autre que l'appelant une copie de l'avis d'appel et de tous les documents produits à l'appui de l'appel.

(2) Where a party who receives a copy of a notice of appeal pursuant to subsection (1) wishes to be heard on the hearing of the appeal, that party shall, within thirty days after the day on which the copy of the notice of appeal was received, or such longer time as the Chairman or Vice-Chairman may allow, file with the Registrar a reply.

(2) Lorsqu'une partie qui a reçu une copie d'un avis d'appel conformément au paragraphe (1) veut être entendue à l'audition de l'appel, elle dépose une réponse auprès du registraire dans les 30 jours qui suivent la date de réception de la copie de l'avis d'appel, ou dans tel délai plus long qu'autorise le président ou le vice-président.

(3) A reply referred to in subsection (2) shall contain

(3) La réponse mentionnée au paragraphe (2) contient :

(a) a statement admitting or denying the allegations of fact in the notice of appeal; and

a) un exposé dans lequel la partie admet ou nie les faits allégués dans l'avis d'appel;

(b) a statement of any further allegations of fact and of the statutory provisions and reasons on which the party intends to rely.

b) un exposé des autres faits, des dispositions législatives et des motifs qu'elle entend invoquer.

(4) On receipt of the reply of any party, the Registrar shall forward a copy of that reply to every other party to the appeal. SOR/92-18, s. 3; SOR/96-524, ss. 3, 8.

(4) Sur réception de la réponse d'une partie, le registraire en transmet copie aux autres parties à l'appel. DORS/92-18, art. 3; DORS/96-524, art. 3 et 8.

*NOTICE OF MOTION*

*AVIS DE MOTION*

10.1 (1) Any matter that arises, in the course of an appeal or seeking leave to appeal, that can be considered in advance of the hearing of the appeal without the personal appearance of the parties and requires a decision or order of the Board, may be brought before the Chairman or Vice-Chairman by notice of motion.

10.1 (1) Toute question soulevée dans le cadre d'un appel ou de la demande d'autorisation d'interjeter appel qui peut être examinée avant la tenue de l'audition de l'appel sans que les parties comparaissent et qui requiert une décision ou une ordonnance de la Commission peut être déférée au président ou au vice-président par voie d'avis de motion.

(2) A notice of motion shall

(2) L'avis de motion :

(a) be in writing in any form;

a) est présenté par écrit en quelque forme que ce soit;

(b) state the precise relief sought and the grounds to be argued, including a reference to any statutory provision or any rule contained in these Rules, and lists the documentary evidence to be used; and

b) mentionne le redressement précis demandé et les motifs qui seront défendus, avec renvoi aux dispositions législatives ou aux dispositions des présentes règles, et énumère les preuves documentaires qui seront présentées;

(c) shall be accompanied by an affidavit verifying the facts that the applicant relies upon and all documentary evidence related thereto. Any other party may file an affidavit in reply.

c) est accompagné d'un affidavit qui confirme les faits invoqués par le requérant ainsi que de toutes les preuves documentaires pertinentes. Toute autre partie peut déposer un affidavit en réponse.

(3) A notice of motion and all accompanying documents and representations of a party shall be filed with the Registrar and shall be served on every other party to the appeal not later than 10 days prior to the hearing of the appeal. A party opposing the motion shall file with the Registrar and shall serve on every other party to the appeal not later than five clear days prior to the hearing of the appeal any affidavit or written representations upon which the party intends to rely.

(3) Au moins 10 jours avant la tenue de l'audition de l'appel, l'avis de motion, les documents d'accompagnement et les exposés de la partie sont déposés auprès du registraire et signifiés aux autres parties à l'appel. Au moins cinq jours francs avant la tenue de l'audition de l'appel, une partie qui s'oppose à la motion dépose auprès du registraire tout affidavit ou exposé écrit sur lequel elle entend se fonder et le signifie aux autres parties à l'appel.

(4) A notice of motion may be disposed of by the Chairman or the Vice-Chairman without the requirement of an oral hearing, unless the Chairman or Vice-Chairman otherwise directs.

(4) La décision concernant l'avis de motion est prise par le président ou le vice-président sans qu'une audition ait lieu, à moins que le président ou le vice-président n'en décide autrement.

(5) A decision or order on a notice of motion shall be made and conveyed to the parties to the appeal not later than three days prior to the date set for the hearing of the appeal. Written reasons shall be issued on the request of any party to the appeal.

(5) Au moins trois jours avant la date fixée pour l'audition de l'appel, la décision ou l'ordonnance concernant l'avis de motion est formulée et transmise aux parties à l'appel. Les motifs sont fournis par écrit à la demande de toute partie à l'appel.

(6) Despite subsections (2) to (5), a notice of motion in connection with a matter that has not been served on a party prior to the commencement of the hearing of the appeal may be brought orally at the hearing and shall be disposed of in accordance with such procedures as the Board may direct. SOR/96-524, s. 4.

(6) Malgré les paragraphes (2) à (5), un avis de motion concernant une question qui n'a pas été signifiée à une partie avant le début de l'audition d'appel peut être présenté oralement au cours de l'audition et est réglé selon la procédure établie par la Commission. DORS/96-524, art. 4.

10.2 (1) Where the constitutional validity, applicability or operability of any provision of the Act or any regulations made thereunder is to be put in issue before the Board in relation to a matter under appeal to the Board, the party raising the issue shall, within 60 days after the date that notice granting leave to appeal is received, file with the Registrar four copies of a brief containing a concise memorandum of the points to be argued and four copies of the authorities upon which the party intends to rely. The party shall also serve, at the same time, a copy of the brief and of the authorities on every other party to the appeal.

10.2 (1) Lorsque la validité, l'applicabilité ou l'effet, sur le plan constitutionnel, d'une disposition de la Loi ou de ses règlements est mis en cause devant la Commission relativement à un appel devant celle-ci, la partie qui soulève la question dépose auprès du registraire, dans les 60 jours suivant la date à laquelle elle a reçu l'avis d'autorisation d'interjeter appel, quatre copies d'un dossier contenant un mémoire concis des points qu'elle entend défendre et quatre copies des précédents qu'elle entend invoquer. Elle signifie simultanément une copie de ces documents aux autres parties à l'appel.

(2) The party shall also comply with section 57 of the *Federal Court Act* and shall provide proof of service of the notice of constitutional question to the Registrar not later than

(2) La partie se conforme également à l'article 57 de la *Loi sur la Cour fédérale* et fournit au registraire une preuve de signification de la question constitutionnelle au moins sept

seven days prior to the date set for the hearing of the appeal.

(3) Within 30 days after the date of receipt of the brief referred to in subsection (1), the other parties shall file with the Registrar four copies of a brief containing a concise memorandum of the points to be argued and four copies of the authorities upon which they intend to rely. They shall also serve, at the same time, a copy of the brief and of the authorities on every other party to the appeal.

(4) Where no proof of service has been provided under subsection (2), the Board may, on the request of any party or on its own motion, adjourn the hearing. SOR/96-524, s. 4.

11. [Revoked, SOR/92-18, s. 3]

#### *HEARING OF THE CASE*

12. (1) After the time for filing a reply under subsection 10(2) has expired, the matter shall be deemed to be an action before the Board and, unless the Chairman or Vice-Chairman otherwise orders, ready for hearing.

(2) The Board may, upon application by any party to an appeal, or of its own motion, appoint the time and place for the hearing of the appeal.

(3) The Registrar shall notify all parties to an appeal of the time and place appointed for the hearing of the appeal at least 20 days before the date so appointed.

(4) The Board may, upon application by any party to an appeal, or of its own motion, adjourn an appeal on such terms as in its opinion the circumstances of the case require. SOR/92-18, s. 4.

13. [Revoked, SOR/92-18, s. 5]

#### *CONSOLIDATION AND JOINDER*

14. Where there are two or more appeals, whether under the Act or under any provincial law referred to in section 85 of the Act, the Board may, on application by any party, or of its own motion, if it appears

(a) that some common question of law or fact arises in both or all the appeals, or

jours avant la date fixée pour l'audition de l'appel.

(3) Dans les 30 jours suivant la date de réception du dossier visé au paragraphe (1), chacune des autres parties dépose auprès du registraire quatre copies d'un dossier contenant un mémoire concis des points qu'elle entend défendre et quatre copies des précédents qu'elle entend invoquer. Elle signifie simultanément une copie de ces documents aux autres parties à l'appel.

(4) Lorsqu'aucune preuve de signification n'a été fournie conformément au paragraphe (2), la Commission peut, à la demande d'une partie ou de son propre chef, ajourner l'audition. DORS/96-524, art. 4.

11. [Abrogé, DORS/92-18, art. 3]

#### *AUDITION*

12. (1) Après l'expiration du délai de réponse prévu au paragraphe 10(2), la contestation est liée devant la Commission et, à moins que le président ou le vice-président n'en décide autrement, la cause est prête pour audition.

(2) La Commission peut, à la demande de toute partie à un appel ou d'office, fixer la date et le lieu de l'audition de l'appel.

(3) Le registraire doit notifier à toutes les parties à un appel l'heure et le lieu fixés pour l'audition de cet appel au moins 20 jours avant la date ainsi fixée.

(4) La Commission peut, à la demande de toute partie à un appel ou d'office, ajourner l'appel aux conditions qu'elle juge convenables dans les circonstances. DORS/92-18, art. 4.

13. [Abrogé, DORS/92-18, art. 5]

#### *RÉUNION D'APPELS*

14. Dans le cas où deux ou plusieurs appels sont interjetés, soit en vertu de la Loi, soit en vertu d'une loi provinciale visée à l'article 85 de la Loi, la Commission peut, à la demande de toute partie ou de sa propre initiative, s'il appert :

a) que ces appels posent des questions de droit ou de fait qui leur sont communes, ou

(b) that for some other reason it is desirable in the interests of justice,

order such appeals to be consolidated on such terms as it deems fit, or may order the appeals to be heard at the same time, or consecutively, or may order any appeal to be stayed until the determination of any other appeal. SOR/90-811, s. 4; SOR/92-18, s. 6; SOR/96-524, s. 8.

#### *DISCOVERY*

15. (1) After the time limited for filing a reply has expired, any party to an appeal may apply to the Chairman, a member of the Board or the Registrar for an order

(a) directing any other party to the appeal to make discovery of such of the documents that are or have been in his possession relating to any matter in question therein;

(b) permitting him to examine for the purpose of discovery any party to the appeal; or

(c) directing or permitting both the discovery and examination described in paragraphs (a) and (b).

(2) The Chairman, a member of the Board or the Registrar may, on receipt of an application made pursuant to subsection (1), make such order as in his opinion the circumstances of the case require and, without restricting the generality of the foregoing, may in the order

(a) specify the form of the affidavit to be used for the production of documents;

(b) designate the person to be examined, where the party is a corporation or unincorporated association;

(c) designate the person before whom the examination is to be conducted and the manner in which it is to be conducted; and

b) que, pour quelque autre raison, il est dans l'intérêt de la justice de le faire,

ordonner, aux conditions qu'elle juge convenables, la réunion de ces appels ou leur audition en même temps ou consécutivement, ou que les procédures d'appel dans l'un ou l'autre cas soient suspendues jusqu'à ce que tout autre appel ait été jugé. DORS/90-811, art. 4; DORS/92-18, art. 6; DORS/96-524, art. 8.

#### *INTERROGATOIRE PRÉALABLE ET COMMUNICATION DE DOCUMENTS*

15. (1) Après l'expiration du délai imparti pour la production de la réponse, une partie à un appel peut demander au président, à un autre membre de la Commission ou au registraire de rendre une ordonnance

a) enjoignant à une autre partie à l'appel de donner communication des documents relatifs à un point en litige dans l'appel, et qu'il a ou a eus en sa possession;

b) lui permettant de soumettre toute partie à l'appel, à un interrogatoire préalable; ou

c) enjoignant ou permettant de faire la communication de documents et l'interrogatoire préalable dont il est question aux alinéas a) et b).

(2) Le président, un membre de la Commission ou le registraire peut, dès la réception d'une demande faite en vertu du paragraphe (1), rendre l'ordonnance qu'il juge nécessaire dans les circonstances et, sans restreindre la portée générale de ce qui précède, il peut, dans cette ordonnance,

a) déterminer la formule d'affidavit à utiliser pour la production des documents;

b) désigner la personne devant être interrogée, lorsque la partie est une corporation ou une association qui n'est pas constituée en corporation;

c) désigner la personne devant laquelle l'interrogatoire doit avoir lieu et la manière d'y procéder; et

(d) provide for the use that may be made of the discovery at the hearing of the appeal.

d) indiquer quel usage l'on pourra faire, au cours de l'audition de l'appel, des documents produits et des témoignages reçus lors de l'interrogatoire préalable.

#### EVIDENCE

#### PREUVE

16. (1) The Board may summon before it by subpoena any person and require him to give evidence on oath and to produce such documents as it deems requisite.

16. (1) La Commission peut assigner toute personne à comparaître devant elle, par citation, et l'obliger à témoigner sous serment et à produire les documents qu'elle juge nécessaires.

(2) Subpoenas, which shall be in accordance with the form set out in Schedule II or III, may be issued by the Registrar in blank and may be completed by a party to an appeal or his solicitor, and any number of names may be inserted in one subpoena.

(2) Des citations suivant la formule indiquée dans l'annexe II ou III peuvent être émises en blanc par le registraire et peuvent être remplies par une partie à un appel ou son avocat, et plusieurs noms peuvent être inscrits sur une seule et même citation.

(3) Witnesses shall be examined orally upon oath at the hearing of an appeal but, prior to the hearing or at any time during the hearing, any party to the appeal may apply to the Board for an order permitting that all facts or any particular fact or facts may be proven other than by oral evidence and the Board may make such order as in its opinion the circumstances of the case require.

(3) Lors de l'audition d'un appel, les témoins sont interrogés de vive voix et sous serment mais, avant l'audition ou au cours de l'audition, une partie à l'appel peut demander à la Commission de rendre une ordonnance permettant de faire la preuve de tous les faits ou d'un ou de plusieurs faits particuliers autrement que par preuve testimoniale, et la Commission peut rendre l'ordonnance qu'elle juge convenable dans les circonstances.

17. Any person swearing an affidavit to be used in an appeal may be requested to appear before a person appointed by the Chairman or a member of the Board for that purpose to be cross-examined thereon.

17. Quiconque souscrit un affidavit devant servir dans un appel peut être requis de comparaître devant une personne nommée par le président ou un membre de la Commission à cette fin pour être contre-interrogé sur cet affidavit.

18. A hearing of an appeal shall be public unless the Board in special circumstances orders the case to be heard *in camera*.

18. Les audiences de la Commission sont publiques à moins qu'en raison de circonstances particulières la Commission n'ordonne de connaître de l'affaire *à huis clos*.

18.1 At any time the Board, the Chairman or the Vice-Chairman, as the case might be, may, on their own initiative or at the request of any party, adjourn a hearing of an appeal on such terms, if any, as are just, including adjourning it until a decision has been rendered in another case before the Board or before any other court in Canada in which the issue is the same or substantially the same as the issue to be raised in the proceeding. SOR/96-524, s. 5.

18.1 La Commission, le président ou le vice-président, selon le cas, peut, à la demande d'une partie ou de son propre chef, ajourner l'audition d'un appel aux conditions appropriées, y compris l'ajournement jusqu'à ce que la Commission ou un autre tribunal canadien ait rendu sa décision dans une affaire où la question en litige est la même ou essentiellement la même que celle visée par l'appel. DORS/96-524, art. 5.

#### WITHDRAWALS AND AGREEMENTS

#### DÉSISTEMENT ET ENTENTE

19. An application made or an appeal commenced under these Rules may at any time be withdrawn in whole or in part by the

19. L'appelant peut, à tout moment, se désister de tout ou partie d'une demande ou d'un appel visés par les présentes

appellant on notification in writing to the Registrar, who shall forthwith inform the other parties of the withdrawal. SOR/92-18, s. 7; SOR/96-524, s. 6(F).

19.1 The Board may dispose of an appeal in accordance with an agreement made between the parties to the appeal, signed by them and filed with the Registrar. SOR/92-18, s. 7.

#### *DECISIONS*

20. (1) The reasons for a decision of the Board on an appeal shall be in writing and shall be deposited with the Registrar who shall draw up and enter the decision and shall forthwith send by registered mail a copy of the decision and the reasons therefor to the parties to the appeal.

(2) The Registrar may arrange for the publication of the decisions of the Board, or a digest thereof, in such form and manner as the Board deems proper.

#### *SERVICE OF DOCUMENTS*

21. (1) The service of any documents provided for in these Rules shall be effected by personal service or by letter addressed

(a) in the case of the Chairman, the Vice-Chairman, the Board or the Registrar, to the Registrar, Pension Appeals Board, Ottawa;

(b) in the case of the Minister, to the address of the Minister's representative, as provided in the notice of appeal or in the reply to the notice of appeal, as the case may be;

(c) in the case of the appellant or the respondent, other than the Minister, subject to subsection (2), to

(i) the address for service given in his application for leave to appeal, or

(ii) where no address for service is given in the application for leave to appeal, to the postal or other address given therein or in any written communication made by the appellant or respondent to the Board; and

règles en donnant un avis écrit à cet effet au registraire; celui-ci en informe immédiatement les autres parties. DORS/92-18, art. 7; DORS/96-524, art. 6(F).

19.1 La Commission peut statuer sur un appel selon toute entente conclue entre les parties à l'appel qui a été signée par elles et déposée auprès du registraire. DORS/92-18, art. 7.

#### *DÉCISIONS*

20. (1) Les motifs d'une décision prise par la Commission sur un appel doivent être donnés par écrit et transmis au registraire qui doit rédiger et enregistrer cette décision et immédiatement adresser aux parties à l'appel, sous pli recommandé, une copie du texte et des motifs de la décision.

(2) Le registraire peut prendre les dispositions nécessaires pour la publication des décisions de la Commission ou d'un recueil de celles-ci, en la forme et de la manière que la Commission juge convenables.

#### *SIGNIFICATION DES DOCUMENTS*

21. (1) La signification des documents prévus dans les présentes règles doit être faite par signification à personne ou par lettre adressée,

a) dans le cas du président ou du vice-président, de la Commission ou du registraire, au registraire, Commission d'appel des pensions, Ottawa;

b) dans le cas du ministre, à l'adresse de son représentant donnée dans l'avis d'appel ou dans la réponse à l'avis d'appel, selon le cas;

c) dans le cas de l'appellant ou de l'intimé, autre que le ministre, sous réserve du paragraphe (2),

(i) à l'adresse aux fins de signification, donnée dans la demande en autorisation d'appel, ou

(ii) dans le cas où aucune adresse aux fins de signification n'est donnée dans la demande en autorisation d'appel, à l'adresse, postale ou autre, donnée dans ce document ou dans une communication écrite de l'appellant ou de l'intimé à l'intention de la Commission; et

(d) in the case of any other person, to the address given in the latest written communication made by that person to the Board or the Minister.

(2) Any party to an appeal may in writing notify the Board and any other party of a change of address which address shall thereafter be that party's address for service.

(3) The date of service shall be deemed to be the date of mailing or when personal service is effected.

(4) Notwithstanding paragraphs (1)(a) to (c), the Registrar may in a particular case accept any other means of service that he considers appropriate. SOR/92-18, s. 8; SOR/96-524, s. 7.

#### NON-COMPLIANCE WITH RULES

22. (1) Non-compliance with any of these Rules or with any rule of practice for the time being in force shall not render any proceedings void unless the Board so directs, but such proceedings may be set aside either wholly or in part as irregular and may be amended or otherwise dealt with in such manner and upon such terms as in the opinion of the Board the circumstances of the case require.

(2) Where an application is made to set aside a proceeding for irregularity, the grounds therefor shall be stated clearly in the application.

23. [Revoked, SOR/92-18, s. 9]

#### QUEBEC APPEALS

24. Notwithstanding anything in these Rules, the procedure to be followed on any appeal to the Board under section 196 of the *Quebec Pension Plan* shall be the *Rules of Procedure of the Review Commission* prescribed by Order in Council of the Lieutenant Governor in Council of the Province of Quebec, No. 1465-72 dated May 31, 1972, as amended from time to time.

d) dans le cas de toute autre personne, à l'adresse donnée dans la dernière communication écrite de cette personne à la Commission ou au ministre.

(2) Une partie à un appel peut notifier par écrit à la Commission et à toute autre partie un changement d'adresse, et sa nouvelle adresse est par la suite son adresse aux fins de signification.

(3) La date de signification est censée être la date de la mise à la poste, ou celle de la signification à personne.

(4) Nonobstant les alinéas (1)a) à c), le registraire peut, dans un cas particulier, accepter tout autre moyen de signification qu'il juge convenable. DORS/92-18, art. 8; DORS/96-524, art. 7.

#### INOBSERVATION DES RÈGLES

22. (1) L'inobservation d'une disposition des présentes règles ou de toute règle de pratique en vigueur ne rend pas les procédures nulles, à moins que la Commission n'en décide ainsi, mais ces procédures peuvent être rejetées, en totalité ou en partie, pour irrégularité et peuvent être amendées ou autrement prises en considération de la manière et aux conditions que la Commission juge convenables dans les circonstances.

(2) La demande pour rejet d'une procédure irrégulière doit énoncer clairement les motifs invoqués.

23. [Abrogé, DORS/92-18, art. 9]

#### APPELS DU QUÉBEC

24. Nonobstant toute disposition des présentes règles, la procédure à suivre, lors d'un appel interjeté par-devant la Commission en vertu de l'article 196 du *Régime de rentes du Québec* doit être conforme aux *Règles de procédure de la Commission* de révision, prescrites par le décret du lieutenant-gouverneur en conseil de la province de Québec, no 1465-72 du 31 mai 1972, dans sa forme modifiée de temps à autre.

**SCHEDULE I**  
(Section 4)

(Application for Leave to Appeal and Notice of Appeal)

IN THE MATTER of an appeal to the Pension Appeals Board pursuant to the *Canada Pension Plan* from the decision of a Review Tribunal rendered at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Name of Appellant)

\_\_\_\_\_  
(Name of Respondent)

**APPLICATION FOR LEAVE TO APPEAL  
AND NOTICE OF APPEAL**

To the Chairman/Vice-Chairman,  
Pension Appeals Board,  
Ottawa:

The above-mentioned decision was communicated to me on \_\_\_\_\_.

I am dissatisfied with the above-mentioned decision and hereby request leave to appeal and, if leave is granted, hereby appeal therefrom on the following grounds:

If leave is granted, the following is a statement of allegations of fact, the statutory provisions and the reasons which I intend to submit in support of my appeal to establish that the decision should be reversed or amended.

The name and full postal address of my agent or representative, if any, on whom service of documents may be made are as follows:

DATED AT  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Appellant or Agent or Representative)

\_\_\_\_\_  
(Address for service of documents)

SOR/92-18, s. 10.

**ANNEXE I**  
(article 4)

(Demande d'autorisation d'interjeter appel et avis d'appel)

RELATIVEMENT à l'appel interjeté à la Commission d'appel des pensions, en vertu du *Régime de pensions du Canada*, de la décision rendue par un tribunal de révision à \_\_\_\_\_ le \_\_\_\_\_ jour de \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Nom de l'appelant)

\_\_\_\_\_  
(Nom de l'intimé)

**DEMANDE D'AUTORISATION D'INTERJETER  
APPEL ET AVIS D'APPEL**

Au président ou vice-président  
Commission d'appel des pensions  
Ottawa

La décision susmentionnée m'a été transmise le \_\_\_\_\_.

Je ne suis pas satisfait de cette décision et je sollicite l'autorisation d'interjeter appel. Si cette autorisation m'est accordée, j'en appelle de la décision pour les motifs suivants :

Dans le cas où l'autorisation me serait accordée, j'annexe à la présente demande un exposé des faits, des dispositions législatives et des motifs que j'entends invoquer pour justifier mon appel et démontrer que la décision devrait être infirmée ou modifiée.

Les nom et adresse postale complète de mon mandataire ou représentant, le cas échéant, habilité à recevoir signification de documents sont les suivants :

FAIT À  
le \_\_\_\_\_ jour de \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Signature de l'appelant ou du mandataire ou représentant)

\_\_\_\_\_  
(Adresse aux fins de la signification de documents)

DORS/92-18, art. 10.

**SCHEDULE II**  
(Section 16)

(Subpoena ad testificandum)

**THE PENSION APPEALS BOARD**

To:

- 1. ....
- 2. ....
- 3. ....
- 4. ....

Greeting:

You are hereby required under the provisions of the *Pension Appeals Board Rules of Procedure (Benefits)* to appear personally before the

**PENSION APPEALS BOARD**

at.....on the..... day of....., .....o'clock in the .....noon, to testify the truth according to your knowledge in an appeal pending in the Pension Appeals Board, wherein.....is Appellant and..... is Respondent, on the part of

*Registrar,*  
**PENSION APPEALS BOARD**  
.....

**ANNEXE II**  
(article 16)

(Citation à comparaître pour témoigner)

**COMMISSION D'APPEL DES PENSIONS**

À :

- 1. ....
- 2. ....
- 3. ....
- 4. ....

Salut :

Vous êtes requis, en vertu des dispositions des *Règles de procédure de la Commission d'appel des pensions (prestations)*, de comparaître en personne devant la

**COMMISSION D'APPEL DES PENSIONS**

à..... le..... jour de ..... à .....heure(s) de..... -midi, pour rendre témoignage dans un appel de la Commission d'appel des pensions, dans lequel ..... est l'appelant et .....est l'intimé, à la demande de

*Le Registraire*  
**COMMISSION D'APPEL DES PENSIONS**  
.....

**SCHEDULE III**  
*(Section 16)*

*(Subpoena duces tecum)*

**THE PENSION APPEALS BOARD**

To:

- 1. ....
- 2. ....
- 3. ....
- 4. ....

Greeting:

You are hereby required under the provisions of the Pension Appeals Board Rules of Procedure (Benefits) to appear personally before the

**PENSION APPEALS BOARD**

at.....on the ..... day of ..... o'clock in the ..... noon, to testify the truth according to your knowledge in an appeal pending in the Pension Appeals Board, wherein ..... is Appellant and ..... is Respondent, on the part of..... and to bring with you and there and then produce .....

*Registrar,*  
**PENSION APPEALS BOARD**  
.....

**ANNEXE III**  
*(article 16)*

*(Citation avec réquisition)*

**COMMISSION D'APPEL DES PENSIONS**

À :

- 1. ....
- 2. ....
- 3. ....
- 4. ....

Salut :

Vous êtes requis, en vertu des dispositions des Règles de procédure de la Commission d'appel des pensions (prestations), de comparaître en personne devant la

**COMMISSION D'APPEL DES PENSIONS**

à.....le ..... jour de ..... à ..... heure(s) de.....-midi, pour rendre témoignage dans un appel de la Commission d'appel des pensions, dans lequel .....est l'appellant et .....est l'intimé, à la demande de .....et d'avoir avec vous pour les produire.....

*Le Registrare*  
**COMMISSION D'APPEL DES PENSIONS**  
.....

