

CANADA / JUDGMENT

Moulton v. Canada (Attorney General)

2026 FC 624

COURT

Federal Court

DECIDED

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Moulton v. Canada (Attorney General)

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Montréal, Quebec, May 14, 2026

PRESENT: Mr. Justice Gascon

BETWEEN:

ROBERT EARL MOULTON

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

REASONS AND JUDGMENT

I. Overview [1] The applicant, Robert Earl Moulton, served as a member of the Royal Canadian Mounted Police [RCMP] for more than 25 years, from 1977 to 2005. He suffers from hypertension, allegedly because of his RCMP service.

- [2] Before this Court, Mr. Moulton seeks judicial review of a decision dated February 19, 2025 [Appeal Panel Decision] issued by the Entitlement Appeal Panel [Appeal Panel] of the Veterans Review and Appeal Board Canada [VRAB]. In the Appeal Panel Decision, the Appeal Panel affirmed the August 15, 2023 decision of the VRAB Entitlement Review Panel [Review Panel] granting Mr. Moulton a four-fifths disability entitlement in relation to his hypertension and withholding one fifth because of the uncertainty regarding the cause of his illness [Review Panel Decision].
- [3] As part of this judicial review, Mr. Moulton seeks redress for four issues allegedly arising from the Appeal Panel Decision, namely: (i) the amount of entitlement he was awarded; (ii) the VRAB's "blanket policy" of utilizing a de novo approach; (iii) the calculation method provided in Schedule I of the Pension Act, RSC 1985, c P-6; and (iv) the Appeal Panel's conclusion with respect to subsection 39(2) of the Pension Act. Mr. Moulton also raises arguments with respect to the process followed by the VRAB and the delays in obtaining a final decision on his disability entitlement application.
- [4] For the reasons that follow, Mr. Moulton's application for judicial review will be dismissed. Further to my review of the file, I am satisfied that the Appeal Panel reasonably concluded that Mr. Moulton should be granted a four-fifths disability entitlement for hypertension and that a one fifth withholding was justified. The Appeal Panel's reasons have the requisite degree of justification, intelligibility and transparency, and the Court's intervention is thus unwarranted.

II. Applicable legislative and jurisprudential frameworks A. The disability pension benefits scheme [5] The Federal Court of Appeal [FCA] recently explained the disability pension benefits scheme for RCMP members and veterans in *Canada v Hirschfield*, 2025 FCA 17 at paragraphs 10–25 (leave to appeal to the SCC dismissed, no 41712 (September 18, 2025)).

- [6] More specifically, the Pension Act is meant to provide pensions and other benefits to or in respect of members and veterans of the Canadian Armed Forces [CAF] and their eligible survivors and dependants. The disability pension benefits scheme set out in the Pension Act is also applicable to RCMP members and veterans by virtue of subsection 3(1) and section 32 of the Royal Canadian Mounted Police Superannuation Act, RSC 1985, c R-11 [RCMP Superannuation Act], which provide as follows:

Definitions

Définitions

3 (1) In this Act,

3 (1) Les définitions qui suivent s'appliquent à la présente loi.

...

[...]

Force means the Royal Canadian Mounted Police; (Gendarmerie)

Gendarmerie La Gendarmerie royale du Canada. (Force)

...

[...]

Eligibility for awards under Pension Act

Admissibilité à une compensation conforme à la Loi sur les pensions

32 Subject to this Part and the regulations, an award in accordance with the Pension Act shall be granted to or in respect of the following persons if the injury or disease — or the aggravation of the injury or disease — resulting in the disability or death in respect of which the application for the award is made arose out of, or was directly connected with, the person's service in the Force:

32 Sous réserve des autres dispositions de la présente partie et des règlements, une compensation conforme à la Loi sur les pensions doit être accordée, chaque fois que la blessure ou la maladie — ou son aggravation — ayant causé l'invalidité ou le décès sur lequel porte la demande de compensation était consécutive ou se rattachait directement au service dans la Gendarmerie, à toute personne, ou à l'égard de toute personne :

(a) any person to whom Part VI of the former Act applied at any time before April 1, 1960 who, either before or after that time, has suffered a disability or has died; and

a) visée à la partie VI de l'ancienne loi à tout moment avant le 1er avril 1960, qui, avant ou après cette date, a subi une invalidité ou est décédée;

(b) any person who served in the Force at any time after March 31, 1960 as a contributor under Part I of this Act and who has suffered a disability, either before or after that time, or has died.

b) ayant servi dans la Gendarmerie à tout moment après le 31 mars 1960 comme contributeur selon la partie I de la présente loi, et qui a subi une invalidité avant ou après cette date, ou est décédée.

[7] Applications for disability pension benefits under the Pension Act are filed with the Minister of Veterans Affairs [Minister] — in practical terms, to Veterans Affairs Canada [VAC]. VAC then determines the amount of a disability pension based on the degree to which an

applicant's condition is related to the applicant's service and on an assessment of the extent of the disability (section 35 of the Pension Act). Pension benefit recipients receive non-taxable monthly disability pension benefits for life. A death payment and survivor's benefit may also be paid.

- [8] At the outset, section 3 of the Veterans Review and Appeal Board Act, SC 1995, c 18 [VRAB Act] makes it clear that the regime "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." This principle is also reflected in section 2 of the Pension Act.
- [9] Where an applicant is dissatisfied with a decision made by VAC under the Pension Act, they can seek a review of that decision before the VRAB (section 84 of the Pension Act; section 18 of the VRAB Act). The VRAB is an independent quasi-judicial tribunal (section 4 of the VRAB Act) which functions, through a two-tier process, as a review and appeal body for decisions rendered by VAC in relation to pensions and benefits for members and veterans of the CAF and the RCMP and their dependants.
- [10] An application for review is first heard by a review panel, which will consist of no fewer than two members (subsection 19(1) of the VRAB Act). At this first level, the applicant is allowed to make written submissions to the review panel and may appear before it to present evidence — including witness testimonies — as well as oral arguments (section 20 of the VRAB Act). The review panel may then (i) affirm, vary or reverse the decision of the Minister being reviewed; (ii) refer any matter back to the Minister for reconsideration; or (iii) refer any matter not dealt with in the decision back to the Minister for a decision (section 21 of the VRAB Act).
- [11] An applicant further dissatisfied with the outcome reached by the review panel have further recourse, in the form of a right of appeal to an appeal panel of the VRAB (sections 25–26 of the VRAB Act). The appeal is heard by a panel consisting of not less than three members (subsection 27(1) of the VRAB Act). At this second level, the appellant is allowed to make written submissions to the appeal panel and may appear before it to present evidence — but only documentary — as well as oral arguments (section 28 of the VRAB Act). At the conclusion of its review, the appeal panel may (i) affirm, vary or reverse the decision being appealed; (ii) refer any matter back to the person or review panel that made the decision being appealed for reconsideration, re-hearing or further investigation; or (iii) refer any matter not dealt with in the decision back to the person or review panel for a decision (subsection 29(1) of the VRAB Act).
- [12] As the Appeal Panel correctly pointed out in the Appeal Panel Decision, both the Review Panel and the Appeal Panel conduct *de novo* hearings. This has been repeatedly confirmed by the FCA and this Court in numerous decisions (*Comeau v Canada (Attorney General)*, 2007 FCA 68 at para 12; *Morris v Canada (Attorney General)*, 2019 FC 1374 at para 54; *Lien v Canada (Attorney General)*, 2017 FC 943 at para 24 [*Lien*]; *MacDonald v Canada (Attorney*

General), 2016 FC 186 at para 58, *aff'd* in 2017 FCA 27; *Chaytor v Canada* (Attorney General), 2011 FC 501 at para 32 [Chaytor]; *Hunt v Canada* (Attorney General), 2009 FC 1218 at para 25; *Rioux v Canada* (Attorney General), 2008 FC 991 at para 20; *MacDonald v Canada* (Attorney General), 2008 FC 796 at para 24; *Murphy v Canada* (Attorney General), 2007 FC 905 at para 9 [Murphy]; *Nolan v Canada* (Attorney General), 2005 FC 1305 at para 13 [Nolan]; *King v Canada* (Veterans Review), 138 FTR 15, 1997 CanLII 5778 (FC) at para 22 [King]). This means that both the Review Panel and the Appeal Panel are not bound by the previous decisions rendered and must rather make their own determination based on their review of all the evidence.

B. The burden of proof to establish entitlement to compensation [13] As explained by the FCA in *Cole v Canada*, 2015 FCA 119 [Cole], in order to receive compensation and/or benefits under paragraph 21(2)(a) of the Pension Act, an applicant must establish the following elements: (a) a claimed condition, being an injury or disease, or an aggravation thereof; (b) that the claimed condition “arose out of or was directly connected with” their service as a member of the CAF or the RCMP; (c) that they suffer as a result of the disability; and (d) that their claimed disability resulted from the service-related claimed condition (Cole at para 37).

[14] The first and third elements require factual determinations as to the existence of the claimed condition and the disability, while the second and fourth elements contain causal connection requirements (Cole at paras 40–41).

[15] As will be discussed below, Mr. Moulton’s case deals primarily with the second element, that is, the causality requirement between the claimed condition — in his case, his hypertension — and his RCMP service.

[16] The causal connection requirements of the expression “arose out of or was directly connected with” found in paragraph 21(2)(a) of the Pension Act can be satisfied by either a direct causal connection or a non-direct causal connection (Cole at para 75). Moreover, the FCA made it clear that an applicant’s military or police service does not have to constitute a primary cause of the medical condition giving rise to the claim. Rather, the FCA held that a “sufficient causal connection” would be satisfied if the evidence established that military or police factors were a significant cause of the medical condition (Cole at paras 97, 110–111). An applicant must therefore provide evidence to establish, on a balance of probabilities, that there is more than a mere possibility that their military or police service is a significant cause of their disability. Some kind of connection other than a direct or immediate one may also be sufficient (Cole at paras 72, 74).

[17] It should also be noted that, where a pension is awarded in respect of a disability resulting from the aggravation of an injury or disease, only the fraction of the total disability, measured in fifths, that represents the extent to which the injury or disease was aggravated is pensionable (subsection 21(2.1) of the Pension Act). This is of particular relevance for the case of Mr. Moulton.

[18] Section 39 of the VRAB Act further sets out a unique approach to the consideration of evidence by the VRAB, including the adoption of the “benefit of the doubt” principle:

Rules of evidence

Règles régissant la preuve

39 In all proceedings under this Act, the Board shall

39 Le Tribunal applique, à l'égard du demandeur ou de l'appelant, les règles suivantes en matière de preuve :

- (a) draw from all the circumstances of the case and all the evidence presented to it every reasonable inference in favour of the applicant or appellant;
- a) il tire des circonstances et des éléments de preuve qui lui sont présentés les conclusions les plus favorables possible à celui-ci;
- (b) accept any uncontradicted evidence presented to it by the applicant or appellant that it considers to be credible in the circumstances; and
- b) il accepte tout élément de preuve non contredit que lui présente celui-ci et qui lui semble vraisemblable en l'occurrence;
- (c) resolve in favour of the applicant or appellant any doubt, in the weighing of evidence, as to whether the applicant or appellant has established a case.
- c) il tranche en sa faveur toute incertitude quant au bien-fondé de la demande.

[19] As the FCA explained in *Canada (Attorney General) v Wannamaker*, 2007 FCA 126 [Wannamaker], section 39 of the VRAB Act ensures that the evidence in support of a pension application is considered liberally and in the best light possible for an applicant (Wannamaker at para 5). These statutory presumptions are reflective of the stated purpose of the disability pension benefits scheme set out in section 2 of the Pension Act and section 3 of the VRAB Act.

[20] However, the rules of evidence established by section 39 of the VRAB Act do not relieve the pension applicant of the burden of proving, on a balance of probabilities, the facts required to establish their entitlement to a pension, nor does it require the VRAB to accept all evidence presented by the applicant. The VRAB is not obliged to accept evidence if it finds it not credible, even if not contradicted, although the VRAB may be obliged to explain why it finds such evidence not to be credible in the circumstances (Wannamaker at para 6).

III. Factual background A. Mr. Moulton's service and entitlement claim [21] Mr. Moulton joined the RCMP in October 1977. After basic recruit training in Regina, where he completed training as the troop Valedictorian, Mr. Moulton was first posted to the Waskesiu Lake Detachment in Saskatchewan. His final posting, beginning in March 2003 until the end of his RCMP service in November 2005, was as a Commanding Officer of the “F” Division, also in Saskatchewan.

[22] Mr. Moulton's hypertension was first brought to his attention in 1999. The condition was confirmed by a physician in 2003, after which Mr. Moulton had to take daily medication. He still does to this day.

[23] In February 2022, Mr. Moulton filed a claim with VAC to obtain disability compensation for his hypertension. In his application, Mr. Moulton claimed that he went through a variety of high-stress situations during his career with the RCMP which led to the development of his hypertension. Notably, in the course of his police service, Mr. Moulton intervened on traumatic scenes, including violent and troubling deaths and motor vehicle accidents, responded to a hostage taking in the Saskatoon Correctional Service Canada Regional Psychiatric Centre and was, starting in 1998, involved with the Pickton investigation — an inquiry of a Canadian serial killer who was eventually convicted of murdering several women from Vancouver's Downtown Eastside.

[24] The Court further notes that, since January and February 2022, Mr. Moulton receives a pension for four other health conditions, namely for right carpal tunnel syndrome, tinnitus, hearing loss and post-traumatic stress disorder.

B. History of decisions with respect to Mr. Moulton's entitlement claim [25] In December 2022, a Disability Adjudicator at VAC informed Mr. Moulton that his application for disability entitlement for his hypertension was denied pursuant to section 32 of the RCMP Superannuation Act and subsection 21(2) of the Pension Act [Disability Benefit Decision]. In the Disability Benefit Decision, VAC accepted Mr. Moulton's diagnosis and disability, but concluded that it "did not arise out of, and is not directly connected with, [his RCMP] service." VAC also determined that "a careful review of all the evidence [did] not establish that stress or any service-related factors could have caused, contributed to, or aggravated [Mr. Moulton's] claimed condition." In reaching the Disability Benefit Decision, VAC relied on Mr. Moulton's (i) enlistment medical examinations from 1976 and 1977; (ii) clinical reports from 2004 and 2005; (iii) a periodic health assessment from 2005; and (iv) a medical questionnaire for hypertension from 2022.

[26] Mr. Moulton appealed VAC's Disability Benefit Decision to the VRAB. The Review Panel held a hearing via teleconference in June 2023, during which Mr. Moulton represented himself. In August 2023, the Review Panel rendered the Review Panel Decision and granted Mr. Moulton an entitlement in the amount of four fifths for his hypertension. The entitlement was determined to be effective on the date of his application, in February 2022. In the Review Panel Decision, the Review Panel accepted Mr. Moulton's diagnosis and condition and focused its analysis on whether a service relationship could be established for his condition. The Review Panel found that Mr. Moulton had three high-risk factors for the development or aggravation of hypertension, namely, obesity, smoking and alcohol consumption, in addition to a family connection to hypertension as Mr. Moulton's father passed away due to a heart disease. As such, the Review Panel found that the development of his hypertension [emphasis in the original] was not medically linked to Mr. Moulton's service with the RCMP. While the Review Panel found insufficient support for the claim that Mr. Moulton's RCMP service caused his claimed hypertension condition, it also determined

that prolonged stress from his RCMP service permanently aggravated his condition. However, because the Review Panel was unpersuaded that stress alone arising from his RCMP service had contributed to Mr. Moulton's hypertension, it found "reasonable to withhold one-fifth entitlement in view of those risk factors and their contribution to the end condition."

C. The Decision under review [27] Mr. Moulton appealed the Review Panel Decision to the Appeal Panel of the VRAB. A hearing was held by videoconference on February 13, 2025, during which Mr. Moulton again represented himself. In the detailed Appeal Panel Decision, rendered on February 19, 2025, the Appeal Panel affirmed the entitlement previously awarded by the Review Panel, in the amount of four fifths.

- [28] In its reasons, the Appeal Panel first outlined the three relevant questions in determining whether an applicant is entitled to an award, namely: (i) is there a valid, existing diagnosis of the claimed condition?; (ii) does the claimed condition constitute a permanent disability?; and (iii) was the claimed condition caused, aggravated or contributed to by the RCMP?
- [29] The Appeal Panel accepted Mr. Moulton's diagnosis of hypertension, just like VAC and the Review Panel had, and found that the condition was permanent and disabling. Thus, the Appeal Panel recognized that the central issue to decide was whether there was sufficient medical evidence to support a causal relationship between Mr. Moulton's RCMP service and his hypertension. The Appeal Panel phrased the issue as follows: "whether there was credible medical evidence to support the argument that, although the exact cause of hypertension is unknown, it is as likely as not that Mr. Moulton's hypertension was not just aggravated by his RCMP service but caused by it."
- [30] While the Appeal Panel accepted the expert evidence adduced by Mr. Moulton by way of a medical opinion from a nurse practitioner, it gave it little weight. The Appeal Panel found the nurse's opinion "not credible" for the purposes of determining Mr. Moulton's entitlement due to the nurse's lack of specialization and to the fact that "his opinion lacks the level of analysis required to establish causation in this case." Indeed, the Appeal Panel observed that the nurse did not analyze how Mr. Moulton's distant history of smoking and alcohol use and his body mass index [BMI] over the past years may have influenced his hypertension. There were also inconsistencies with respect to Mr. Moulton's medical family history between the medical opinion and other documents on file.
- [31] The Appeal Panel then proceeded to apply the "benefit of the doubt" principle, as outlined in section 39 of the VRAB Act, and considered whether there was sufficient doubt to warrant granting the additional one-fifth entitlement under this principle. It found that it did not, as there was an absence of credible medical evidence establishing that Mr. Moulton's RCMP service caused his hypertension.
- [32] The Appeal Panel considered that, while Mr. Moulton identified instances of prolonged and exceptional stress during his RCMP service, these were self-assessments and there was no medical diagnosis linking such stress to the development of his hypertension. There was

also no medical evidence indicating whether Mr. Moulton's risk factors — namely, smoking history, alcohol use and BMI — contributed to or had any bearing on his hypertension. As such, the Appeal Panel found that there was no medical opinion establishing or confirming a causal relationship, going beyond a mere correlation, between Mr. Moulton's prolonged and exceptional stress during his RCMP service and the actual development of his hypertension. Given this, the Appeal Panel was of the view that the evidence adduced could not reasonably allow to infer that Mr. Moulton's hypertension was caused exclusively or entirely by his RCMP service. The most favourable inference, said the Appeal Panel, was that Mr. Moulton's service may have "aggravated" or played some role in contributing to his condition.

- [33] Given the lack of medical evidence establishing that Mr. Moulton's hypertension arose from or was caused by his RCMP service, the Appeal Panel found that there was no reasonable ground that would justify granting Mr. Moulton an additional one-fifth entitlement.
- [34] With respect to Mr. Moulton's request for additional retroactivity pursuant to subsection 39(2) of the Pension Act, although the Appeal Panel accepted that Mr. Moulton experienced some delays in having his case adjudicated at VAC and at the VRAB, it was of the view that there was insufficient evidence to support that these delays were beyond the "normal processing of a file." The request for additional retroactivity was thus denied.
- [35] Finally, the Appeal Panel declined Mr. Moulton's request to hold "interpretation hearings" on (i) whether the VRAB errs in holding de novo hearings; and (ii) whether Schedule I of the Pension Act violates the Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11 [Charter], qualifying both issues as frivolous.
- [36] Although it did not hold interpretation hearings, the Appeal Panel nonetheless addressed both issues in the Appeal Panel Decision. First, the Appeal Panel noted that this Court has abundant and unanimous jurisprudence establishing that the VRAB's proceedings are de novo and that it is an error for the VRAB not to proceed in that manner (citing *Lien* at para 24; *Chaytor* at para 32; *Murphy* at para 9; *Nolan* at para 13; *King* at para 22). With respect to the second issue, the Appeal Panel found that Schedule I of the Pension Act does not discriminate based on a mental or physical disability as it does not create any distinction and applies equally to all persons, without regard to their disability. The Appeal Panel further noted that Mr. Moulton had not provided a notice of a constitutional question to the Attorney General of Canada [AGC] and to the provincial attorneys general, as required by section 57 of the Federal Courts Act, RSC 1985, c F-7 [FC Act].

D. The applicable standards of review [37] The Supreme Court of Canada's landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] established a presumption that reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at para 35 [Pepa]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [Mason]), unless the

circumstances lend themselves to the application of one of the recognized exceptions to this presumption (*Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association*, 2022 SCC 30 at para 28; *Vavilov* at paras 33–64, 69–72).

- [38] It is now well established that the standard of review applicable to the merits of the VRAB’s decisions regarding disability entitlement is reasonableness. That is because the VRAB’s determinations as to whether a particular injury or condition arose out of military or police service, or as to whether the required causal connection exists between a particular injury or condition and an applicant’s disability, are questions of mixed fact and law, and thus reviewable on the standard of reasonableness. This also includes the VRAB’s factual determinations as to the existence of the claimed condition and the disability, the VRAB’s application of its rules of evidence under the VRAB Act and the VRAB’s consideration of medical evidence (*Wannamaker* at para 12; *Christie v Canada (Attorney General)*, 2024 FC 1722 at paras 12–15; *Pelletier v Canada (Attorney General)*, 2024 FC 1669 at paras 8–9; *Taylor v Canada (Attorney General)*, 2024 FC 812 at para 14; *Mushing v Canada (Attorney General)*, 2024 FC 750 at paras 22–26).
- [39] I also note that section 31 of the VRAB Act provides that the decision of the Appeal Panel “is final and binding” (with the exception provided for in section 32 of the VRAB Act for reconsideration). This is often referred to as a privative clause and reinforces the deference traditionally shown to specialized tribunals like the VRAB. While the existence of this provision in the VRAB Act does not shield VRAB decisions from judicial review, it certainly is a strong indication that the reasonableness standard — a robust but deferential standard — applies in those matters.
- [40] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on “an internally coherent and rational chain of analysis” and is “justified in relation to the facts and law that constrain the decision maker” (*Pepa* at para 46; *Mason* at para 64; *Vavilov* at para 85). The reviewing court must therefore ask whether the “decision bears the hallmarks of reasonableness — justification, transparency and intelligibility” (*Vavilov* at para 99, citing notably *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 74).
- [41] Such a review must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a “reasons first” approach and begin its inquiry by examining the reasons provided with “respectful attention,” seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Pepa* at paras 46–47; *Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene “only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process” (*Vavilov* at para 13). Flaws must be more than superficial for the reviewing court to overturn an administrative decision. Before a decision can be set aside on the basis that it is unreasonable, the reviewing court must be satisfied that “there are

sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (Vavilov at para 100).

- [42] The standard of reasonableness is rooted in the principle of judicial restraint and deference, and it requires reviewing courts to show respect for the distinct role that the legislature has chosen to give to administrative decision makers, more particularly on findings of fact and the weighing of evidence (Mason at para 57; Vavilov at paras 13, 24, 46, 75). Absent exceptional circumstances, a reviewing court will not interfere with the factual findings of an administrative decision maker (Vavilov at paras 125–126, citing *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55; *Doyle v Canada (Attorney General)*, 2021 FCA 237 at para 3). The onus is on the party challenging the decision to prove that it is unreasonable.
- [43] With respect to Mr. Moulton’s argument concerning the VRAB’s de novo approach to proceedings, I am satisfied that, as articulated by Mr. Moulton at the hearing, it raises an issue of procedural fairness. Specifically, the argument is framed as whether the absence of any indication of the de novo approach, in the legislation or in the materials available on VAC’s and the VRAB’s websites, prevented Mr. Moulton from understanding that he could adduce further evidence at each stage of the review process, and therefore from knowing the case he had to meet. As the AGC submitted, such issue attracts the application of a different standard of review, akin to correctness.
- [44] Indeed, despite the presumption of reasonableness, the approach to be taken with respect to procedural fairness issues has not changed following Vavilov (Vavilov at para 23). It has typically been held that correctness is the applicable standard of review for determining whether a decision maker complies with the duty of procedural fairness and the principles of fundamental justice (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 43; *Canada (Attorney General) v McBain*, 2017 FCA 204).
- [45] However, although the reviewing exercise is akin to correctness review, the FCA has affirmed that questions of procedural fairness are not truly decided according to any particular standard of review. Rather, it is a legal question to be answered by the reviewing court, and the court must be satisfied that the procedure was fair having regard to all of the circumstances (*Algoma Steel Inc v Canada (Attorney General)*, 2023 FCA 164 at para 22 [Algoma Steel]; *Canadian Hardwood Plywood and Veneer Association v Canada (Attorney General)*, 2023 FCA 74 at para 57; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35, leave to appeal to the Supreme Court dismissed, no 39522 (August 5, 2021); *Lipskaia v Canada (Attorney General)*, 2019 FCA 267 at para 14; *Canadian Airport Workers Union v International Association of Machinists and Aerospace Workers*, 2019 FCA 263 at paras 24–25; *Perez v Hull*, 2019 FCA 238 at para 18; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [CPR]).

[46] Consequently, the test is whether, given the particular context and circumstances of the case, the process followed by the administrative decision maker was fair and gave the parties concerned the right to be heard, as well as a full and fair opportunity to be informed of the evidence to be rebutted and to have their case heard (*Algoma Steel* at para 22; *CPR* at para 56; *Higgins v Canada (Attorney General)*, 2018 FCA 49 at para 17). No deference is owed to the decision maker on issues of procedural fairness (*Amer v Shaw Communications Canada Inc*, 2023 FCA 237 at para 51; *Maritime Employers Association v Syndicat des débardeurs (Canadian Union of Public Employees, Local 375)*, 2023 FCA 93 at para 81).

IV. Analysis A. Preliminary matters: the contents of Mr. Moulton's notice of application and the absence of a notice of constitutional question [47] The AGC raises two preliminary matters with respect to Mr. Moulton's submissions.

[48] First, the AGC points out that Mr. Moulton's arguments regarding the constitutionality of Schedule I of the Pension Act, the issue of delays before the VRAB and the appropriateness of the VRAB's de novo approach to proceedings were not set out in his notice of application. In addition, argues the AGC, Mr. Moulton did not file a notice of constitutional question with respect to the constitutionality of Schedule I of the Pension Act. The AGC submits that these submissions therefore cannot be considered by the Court, relying on *Hart v Canada (Attorney General)*, 2022 FC 1241 at paragraphs 40–41.

[49] While these concerns may have been justified in light of Mr. Moulton's written submissions, I cannot agree with the AGC in view of the clarifications provided by Mr. Moulton at the hearing before this Court.

[50] Regarding the first matter, paragraph 301(e) of the Federal Courts Rules, SOR/98-106 [Rules] requires an applicant to set out in their notice of application "a complete and concise statement of the grounds intended to be argued, including a reference to any statutory provision or rule to be relied on." In the present case, Mr. Moulton stated in his notice of application that the grounds in support of his application were that "the decision is unreasoned, reasonless and unreasonable and fails to meet the requirements of [section] 7 of the Veterans Review and Appeal Board Regulations [SOR/96-67] and the direction of the Supreme Court of Canada [in *Vavilov*]."

[51] I note that the issues concerning the constitutionality of Schedule I of the Pension Act, the delays before the VRAB and the VRAB's de novo approach to proceedings were all raised by Mr. Moulton before the Appeal Panel and were therefore properly brought before the administrative decision maker. More importantly, these issues were considered and addressed by the Appeal Panel, which declined to either hold an interpretation hearing on these issues or to grant an additional award under subsection 39(2) of the Pension Act. Consequently, the Appeal Panel's reasoning on these points forms part of the merits of the Decision under review and is encompassed in Mr. Moulton's notice of application setting forth that "the decision is unreasoned, reasonless and unreasonable." The AGC's objection on the ground that these three issues were not properly set out in Mr. Moulton's notice of

application is therefore rejected.

- [52] With respect to Mr. Moulton's constitutional challenge, it is true that there is no mention whatsoever in Mr. Moulton's notice of application of a challenge to the constitutionality of the Pension Act. Further, as pointed out by the AGC, Mr. Moulton did not file a notice of constitutional question as required by section 57 of the FC Act and Rule 69. I pause to underline that this requirement was pointed out to Mr. Moulton by the Appeal Panel in the Appeal Panel Decision.
- [53] Section 57 of the FC Act provides that such notice must be served on the AGC and the attorney general of each province, at least ten days before the constitutional question is to be argued, when a party seeks to have an Act of Parliament or regulations made under such an Act "judged to be invalid, inapplicable or inoperable" on constitutional grounds (including the Charter). It is not disputed that the objective of section 57 of the FC Act is to preclude a court from ruling that a statute or regulation is invalid, inapplicable or inoperable on constitutional grounds without adequate notice to Canada and the provinces. However, it is axiomatic that there is no need for a section 57 notice in a case where the judicial remedy sought is something other than a judgment that a statute or regulation is invalid, inapplicable or inoperable on constitutional grounds (*Canada (Canadian Heritage) v Mikisew Cree First Nation*, 2004 FCA 66 at paras 76–79, per Sharlow J.A. dissenting, but not on this point, which the majority did not address, *rev'd on other grounds* 2005 SCC 69; see also *Canada (Attorney General) v Mercier*, 2010 FCA 167 at para 54).
- [54] Whether a constitutional issue can be entertained without a notice of constitutional question under section 57 of the FC Act therefore boils down to what form of reparation is sought. In other words, the need for a notice of constitutional question is directly linked to the remedy sought by a party (*Canada v Mozajko*, 2021 FCA 25 at para 8 [Mozajko]; *Thomson v Canada (National Revenue)*, 2013 FCA 197 at para 67). This principle is conceded by the AGC in the present case.
- [55] The hearing made it clear that in his application for judicial review, Mr. Moulton's purported constitutional challenge is, in substance, a challenge to the merits of the Decision under review — specifically, the Appeal Board's refusal to hold an interpretation hearing on the issue of the constitutionality of Schedule I of the Pension Act. Mr. Moulton confirmed on several occasions in his oral submissions, and in response to the Court's questions, that he is not asking this Court to declare any provision of the Pension Act or the VRAB Act contrary to the Charter, nor to find them invalid, inapplicable or inoperable. Rather, he only seeks to have the matter remitted back to the Appeal Panel. In these circumstances, I am satisfied that section 57 of the FC Act does not apply and that no notice of constitutional question is required for the purposes of this judicial review. The AGC's objection on this ground is thus also rejected.

B. The VRAB's de novo approach [56] I now turn to Mr. Moulton's complaint regarding the VRAB's de novo approach to proceedings before it.

- [57] On this front, Mr. Moulton's arguments can be divided into three categories. Mr. Moulton claims that: (i) this approach is unsupported by legislation; (ii) the Appeal Panel erred in not holding an interpretation hearing on the subject, pursuant to section 30 of the VRAB Act; and (iii) if the de novo approach is found to be appropriate, then it was never duly communicated to him and as such, he was unaware that he could adduce further evidence before the Review Panel and the Appeal Panel.
- [58] The first and the second alleged errors are reviewable on the reasonableness standard, whereas the third alleged error triggers the standard of review akin to correctness applicable to procedural fairness issues.
- (1) The adequacy of the VRAB's de novo approach [59] Regarding the adequacy of the VRAB's de novo approach, I find that it is consistent with both the legislative framework and relevant case law. While I appreciate that the Latin expression "de novo" does not appear in the VRAB Act, the Pension Act or the RCMP Superannuation Act, this approach naturally flows from the legislative scheme and is manifest to any jurist. Specifically, the VRAB Act allows an applicant to submit new evidence and arguments at both the review (section 20) and appeal (section 28) stages. The sole limitation is that only documentary evidence is permitted before the Appeal Panel (subsection 28(2) of the VRAB Act). In other words, an applicant is not restricted to the evidence or arguments they presented before the prior administrative decision maker(s), whether that be VAC and/or the review panel. This differs greatly from an ordinary appeal and from a judicial review under section 18.1 of the FC Act. Having an opportunity to present new evidence is an essential feature of a de novo process.
- [60] Given the legislative scheme and the relevant case law, I am satisfied that the VRAB reasonably interpreted its constituting statute and reasonably characterized Mr. Moulton's argument regarding the inadequacy of the VRAB's de novo approach as trivial, frivolous or vexatious. Moreover, the VRAB's de novo approach is settled law, as explained above in paragraph [12]. In other words, Mr. Moulton has not convinced me that the VRAB's de novo approach is unsupported by legislation or that the Appeal Panel erred in declining to hold an interpretation hearing on the subject. The conclusions reached by the Appeal Panel on the first two alleged errors identified by Mr. Moulton therefore meet the requirements of reasonableness.
- [61] I underline that it is puzzling to see an applicant argue that such a de novo process is inadequate, inappropriate or unfair. In fact, a de novo approach generally affords meaningful procedural advantages to applicants, as it permits them to supplement and refine their case as they move forward along the VRAB's review and appeal processes. Indeed, applicants are not confined to the evidentiary record as it stood at an earlier stage and may rather introduce new evidence, update medical or expert reports, clarify prior submissions and advance more fully developed legal arguments before the new administrative decision maker. This is generally advantageous for applicants.

- (2) There was no breach of procedural fairness [62] With respect to Mr. Moulton's procedural fairness argument, the AGC argues that there were some "indications" both in the VAC's Disability Benefit Decision and the Review Panel Decision that the VRAB proceeded de novo.
- [63] I am not persuaded by those submissions.
- [64] The VAC's Disability Benefit Decision refers to an internal review option if an applicant has new evidence, but it does not mention that such new evidence is admissible before the VRAB, contrary to what the AGC argues. Moreover, the Disability Benefit Decision mentions that the VRAB conducts a "fair appeal process," without more. Turning to the Review Panel Decision, it is true that the reasons state that "[t]his is a hearing de novo" and that the Review Panel is "not bound by the decision of VAC." However, there is no indication that such information was communicated to Mr. Moulton prior to the hearing before the Review Panel. In fact, Mr. Moulton alleges that he was never made aware that the VRAB proceeded de novo nor that he could adduce new evidence. The same is true, says M. Moulton, regarding the Appeal Panel Decision.
- [65] Even if I were to accept that the information on the de novo procedure was not timely communicated to Mr. Moulton, neither in the VAC's nor the VRAB's materials, I cannot help but observe that Mr. Moulton's arguments essentially amount to saying that he did know the law. While Mr. Moulton's good faith is certainly not in question here, ignorance of the law is not a valid legal argument to support an alleged breach of procedural fairness. In addition, Mr. Moulton did not explain what other evidence or document he would have adduced had he known that the Appeal Panel was proceeding de novo.
- [66] In fact, at no point did Mr. Moulton argue or even suggest that, had he known about or understood the de novo approach, he would have filed additional evidence before the VRAB on the determinative issue of causation between his hypertension and his RCMP service.
- [67] I observe that legal advice and representation are provided free of charge to all persons who come before the VRAB, including before both the Review Panel and the Appeal Panel, through the Bureau of Pensions Advocates (established under section 6.1 of the Department of Veterans Affairs Act, RSC 1985, c V-1). This option was specifically mentioned to Mr. Moulton, both in the VAC's Disability Benefit Decision and in the Review Panel Decision. In addition, as previously mentioned, a reading of the VRAB Act makes it clear that an applicant can submit new evidence and arguments both on review (section 20) and on appeal (section 28).
- [68] I also note that should Mr. Moulton have new and additional evidence, he may apply for a reconsideration of the Appeal Panel Decision under subsection 31(2) of the VRAB Act.
- [69] In the circumstances, I am not persuaded that the Appeal Panel Decision can be qualified as procedurally unfair because of an alleged failure to expressly inform Mr. Moulton of the VRAB's de novo feature.

C. The entitlement award is reasonable [70] I also find that the Appeal Panel Decision is reasonable.

- [71] Contrary to Mr. Moulton's submissions, I am of the view that the Appeal Panel correctly identified the issue on appeal, that is whether there was sufficient credible medical evidence to support Mr. Moulton's contention that his RCMP service caused his hypertension. To the benefit of Mr. Moulton, the Appeal Panel even focused its analysis on whether there was sufficient medical evidence to grant Mr. Moulton the one-fifth entitlement that the Review Panel withheld.
- [72] I pause to underline that, contrary to Mr. Moulton's allegations, the Appeal Panel directly addressed the issue of causation in its reasons and was clearly mindful of the fact that the one-fifth withholding was linked to an absence of causal link between his hypertension and his RCMP service. There is simply no merit to Mr. Moulton's contention that the Appeal Panel Decision contains no reasons or that the reasons provided are somehow lacking in substance. Quite the opposite, the causation analysis rather permeates the reasons. My reading of the Appeal Panel Decision leaves no doubt that the Appeal Panel turned its mind to the issue of causation, emphasized that a causal link between Mr. Moulton's RCMP service and his hypertension had to be demonstrated to obtain the additional one-fifth entitlement, and that the evidence provided simply did not allow to make that bridge.
- [73] To meet his onus, Mr. Moulton provided the Appeal Panel with the medical opinion of a nurse practitioner. However, the Appeal Panel found this medical opinion "not credible" because the nurse's opinion "lack[ed] the level of analysis required to establish causation." The Appeal Panel also noted inconsistencies between the medical opinion provided and the information on file, notably concerning Mr. Moulton's family history. The Appeal Panel further observed that the medical opinion contained no analysis regarding how this family history as well as Mr. Moulton's past smoking and alcohol use and his BMI over the last years may have influenced his hypertension.
- [74] The Appeal Panel indicated that a credible medical opinion supporting causation would require (i) a specialist in hypertension or a related field; (ii) a thorough analysis of Mr. Moulton's full medical history, including other risk factors; and (iii) a clear and evidence-based rationale explaining how Mr. Moulton's RCMP service was as likely as not to have caused his condition. While these were legitimate and reasonable expectations, this was not done in Mr. Moulton's case.
- [75] The inconsistencies and the absence of key elements in the medical opinion, identified by the Appeal Panel, reasonably weakened the reliability and sufficiency of Mr. Moulton's evidence (Wannamaker at para 29). This is not a situation that engages paragraph 39(b) of the VRAB Act, which requires the VRAB to "accept any uncontradicted evidence" presented by the applicant that the VRAB considers "credible in the circumstances." In my view, in the circumstances, it was not unreasonable for the VRAB to find Mr. Moulton's medical evidence not credible and to assign it little weight with respect to causation.

- [76] Mr. Moulton was made aware of the flaws in his adduced evidence by the Review Panel Decision. Indeed, the Review Panel Decision noted that the nurse practitioner was “not an expert” nor “a specialist in the field,” and that his letter was short and “not clear on the history of the condition or what charts or tests were conducted.” While Mr. Moulton could have filed new and better evidence on appeal, and even though he bore the onus of substantiating the causal link between his condition and his RCMP service, he did not do so.
- [77] Having found that the medical opinion provided by Mr. Moulton was not credible nor sufficient, there was simply no other evidence at the Appeal Panel’s disposal to establish causation between Mr. Moulton’s hypertension and his RCMP service and to contradict the guidelines indicating that the cause of hypertension is generally unknown. This meant, in turn, that there was not sufficient doubt to warrant granting an additional one-fifth entitlement to Mr. Moulton under the “benefit of the doubt” principle in section 39 of the VRAB Act.
- [78] As mentioned earlier, subsection 21(2.1) of the Pension Act provides that only the fraction of the disability, measured in fifths, that represents the extent to which the injury or disease was aggravated by the service is pensionable. Here, the reasons provided by the Appeal Panel to refuse granting Mr. Moulton an additional one-fifth entitlement are detailed, transparent and intelligible, as required by Vavilov. The Appeal Panel thoroughly assessed the evidence adduced and explained why the “benefit of the doubt” principle, set out in section 39 of the VRAB Act, was inapplicable in the circumstances.
- [79] As such, I am satisfied that the Appeal Panel thoroughly considered the evidence adduced by Mr. Moulton as well as his written and oral submissions, including the caselaw he submitted, and that its findings are reasonable. Mr. Moulton’s submissions essentially ask this Court to reweigh and reassess the evidence considered by the Appeal Panel. However, absent exceptional circumstances — none of which are present here —, a reviewing court will not interfere with an administrative decision maker’s factual findings (Vavilov at para 125).

D. The additional award pursuant to subsection 39(2) of the Pension Act [80] In the Appeal Panel Decision, the Appeal Panel accepted to grant Mr. Moulton an award retroactive to the date of his application, pursuant to paragraph 39(1)(a) of the Pension Act. However, the Appeal Panel rejected Mr. Moulton’s claim for an additional award pursuant to subsection 39(2) of the Pension Act, finding that, while he had experienced some delays in having his case adjudicated both at VAC and at the VRAB, there was insufficient evidence to support his claims that these delays were beyond the normal processing of a file.

- [81] In his written submissions, Mr. Moulton argued that he ought to have benefited from an additional award pursuant to subsection 39(2) of the Pension Act. However, at the hearing, Mr. Moulton clarified that he was not contesting the Appeal Panel’s decision not to award him an additional award pursuant to subsection 39(2) of the Pension Act. Indeed, he is not seeking an additional award on the four-fifths entitlement he received for his hypertension;

he is rather asking that in the event the additional one-fifth entitlement is granted to him, this award also be retroactive to the date of his application.

- [82] Given these clarifications provided by Mr. Moulton, the fact that it is not the Court's role to determine his disability entitlement and the conclusion of this judicial review, there is no need to address this argument further.

E. The Charter argument and the rounding provided for in Schedule I of the Pension Act [83]
Having ruled that Mr. Moulton's Charter argument is admissible as part of this judicial review, I must now determine whether the Appeal Panel erred in failing to hold an interpretation hearing pursuant to section 30 of the VRAB Act to address Mr. Moulton's Charter argument. This argument can be summarized as follows.

- [84] Schedule I of the Pension Act sets out the rates of pensions and thus the pension amounts payable to an individual and their dependant(s) in the event of the individual's disability. As can be seen from the legislative table, a disability range of 5% gives rise to a specific rate of pension. For example, the 68–72% disability range gives rise to a rate of pension of 70%. Thus, veterans with a disability rate of 68 or 69% are rounded up, and veterans with a disability rate of 71 or 72% are rounded down.
- [85] I understand that before his hypertension claim, Mr. Moulton had a disability rate of 63%, which granted him a pension rate of 65%. Because he only got a four-fifths entitlement for his hypertension claim, his disability rate rose by 4% to 67%, which again granted him a pension rate of 65% as per the rounding set out in Schedule I of the Pension Act. In other words, the recognition of his four-fifths entitlement for his hypertension did not translate into any increase in Mr. Moulton's disability benefits. Mr. Moulton alleges that this rounding mechanism "benefits those less deserving at the expense of the more deserving" or, as he metaphorically presented it at the hearing, is comparable to "robbing Peter and paying Paul." Thus, argues Mr. Moulton, Schedule I of the Pension Act is contrary to the equality rights provided for in section 15 of the Charter and the Appeal Panel erred in refusing to hold an interpretation hearing on the issue.
- [86] The Appeal Panel refused to hold said interpretation hearing because Mr. Moulton did not provide a notice of a constitutional question to the AGC and to the provincial attorneys general, as required by section 57 of the FC Act. The Appeal Panel also determined that in any event, no interpretation hearing was needed because Schedule I of the Pension Act does not discriminate on the basis of a mental or physical disability as it does not create any distinction and applies equally to all persons, without regard to their disability.
- [87] What is reasonable in a given situation will always depend on the constraints imposed by the legal and factual context of the particular decision under review (Vavilov at para 90). Here, the Appeal Panel adequately qualified the constitutional issue raised by Mr. Moulton as requiring a notice of constitutional question pursuant to section 57 of the FC Act, as he clearly sought that the Appeal Panel declare the Schedule I of the Pension Act contrary to section 15 of the Charter and thus, invalid, inoperable or inapplicable. As explained above in

paragraph [53], this is precisely the situation encompassed by section 57 of the FC Act. This provision undoubtedly applies to the VRAB, as it applies to “a federal board, commission or other tribunal.”

- [88] In addition, it was reasonably open to the Appeal Panel to conclude that Mr. Moulton’s Charter argument was meritless and frivolous as there were, on its face, no identified grounds of discrimination that would have fallen within the ambit of section 15 of the Charter.
- [89] In those circumstances, I find that the Appeal Panel’s refusal to hold an interpretation hearing in the absence of the required notice is reasonable.
- [90] Mr. Moulton submits that in any event, it was incumbent on the VRAB — and not on him — to provide the notice required under section 57 of the FC Act, since the obligation would have been triggered by the VRAB’s decision to hold an interpretation hearing on the constitutional issue. Mr. Moulton relies on the wording of section 30 of the VRAB Act, which prescribes as follows:

Questions of interpretation

Question d’interprétation

30 Where the appellant raises a question of interpretation relating to this Act, to the Pension Act, to Part 3 of the Veterans Well-being Act, to any other Act of Parliament pursuant to which an appeal may be taken to the Board or to any regulations made under any such Act and the appeal panel is of the opinion that the question is not trivial, frivolous or vexatious, it shall notify the prescribed persons or organizations and give them an opportunity to present argument on the question before it makes its decision.

30 Lorsque l’appellant soulève une question d’interprétation en ce qui touche l’application de la présente loi, de la Loi sur les pensions, de la partie 3 de la Loi sur le bien-être des vétérans ou de toute autre loi fédérale permettant d’interjeter appel au Tribunal — ou des règlements d’application de l’une ou l’autre de ces lois —, le comité d’appel, s’il estime que la question n’est pas frustratoire, en avise les personnes ou organisations désignées par règlement et leur donne la possibilité de faire valoir leurs arguments à ce sujet avant de trancher la question.

- [91] I am not persuaded by Mr. Moulton’s argument, mainly for two reasons.
- [92] First, it is well established that the obligation to serve notice rests with the party seeking to raise a constitutional question, who must notify the AGC and the attorney general of each province (see, for instance, *Mayhead v Canada (Attorney General)*, 2025 FCA 157 at para 36). It is the burden of the person requesting that a particular legislation or regulation be “judged to be invalid, inapplicable or inoperable” to ensure that the appropriate notice is served (*Mozajko* at para 9). Here, the VRAB is not a party to its own proceedings, nor is it the one alleging that Schedule I of the Pension Act is contrary to the Charter.

[93] Second, the Prescribed Persons and Organizations Regulations, SOR/96-68 lists the “persons and organizations prescribed” for the purposes of sections 30 of the VRAB Act. That list does not include the AGC nor the attorneys general of the provinces. The prescribed entities are (a) the Army, Navy and Air Force Veterans in Canada; (b) the Bureau of Pensions Advocates; (c) the Merchant Navy Coalition for Equality; (d) the Minister of Veterans Affairs; (e) the National Council of Veteran Associations in Canada; and (f) the Royal Canadian Legion. Accordingly, the VRAB is under no statutory obligation to notify the AGC and the provincial attorneys general when it decides to hold an interpretation hearing under section 30 of the VRAB Act.

[94] I recognize Mr. Moulton’s legitimate concern that, although he was granted a four-fifths entitlement for his hypertension, he receives no additional financial compensation for this disability as a result of the rounding mechanism set out in Schedule I of the Pension Act. While this outcome may appear inequitable, any modification to that rounding mechanism is a matter for Parliament, not the Court.

F. Mr. Moulton’s other orally submitted arguments [95] During his oral submissions at the hearing, Mr. Moulton advanced several additional allegations. These included claims that the VRAB engaged in plagiarism in its decisions, that its members demonstrated general incompetence (both in law and medicine), and that they hold an inherently political role given their appointment by the Governor in Council. He also asserted a lack of institutional independence between VAC and the VRAB, as they are allegedly both using the same e-mail address and internal communication system (“myVAC”). Finally, Mr. Moulton also criticized the VRAB’s reliance on an outdated medical guideline for hypertension, observing it dated from 2005 and referenced studies no more recent than 1994.

[96] It is generally improper to raise during oral submissions and arguments not otherwise made in writing, both for the AGC and for the Court (*Singh v Canada (Citizenship and Immigration)*, 2025 FC 1846 at para 32, citing *Portillo de Jurado v Canada (Citizenship and Immigration)*, 2024 FC 1108 at paras 4–5; *Bineesh v Canada (Citizenship and Immigration)*, 2022 FC 1039 at paras 16–17; *Zhou v Canada (Citizenship and Immigration)*, 2018 FC 182 at para 6). In any event, these additional arguments would have been rejected as Mr. Moulton did not provide any factual evidence in their support as part of this application for judicial review.

V. Conclusion [97] For the foregoing reasons, Mr. Moulton’s application for judicial review is dismissed. I detect nothing irrational or arbitrary in the Appeal Panel Decision. On the contrary, the Appeal Panel’s analysis of Mr. Moulton’s entitlement claim, including its findings related to the insufficiency of the medical evidence adduced on the causality requirement between his condition and his RCMP service, has the required attributes of transparency, justifiability and intelligibility commended by *Vavilov*, and is not tainted by any reviewable error.

[98] The AGC did not seek costs. In the exercise of my discretion pursuant to Rule 400, no costs are awarded.

JUDGMENT in T-1283-25

THIS COURT'S JUDGMENT is that:

This application for judicial review is dismissed.

No costs are awarded.

“Denis Gascon”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

T-1283-25

STYLE OF CAUSE:

ROBERT EARL MOULTON v THE ATTORNEY GENERAL OF CANADA

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