

FORM 337

Rule 337

**Notice of Appeal**

Court File No.

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

***ALEXANDRE DMITRIENKO***

Appellant

and

***THE ATTORNEY GENERAL OF CANADA***

Respondent

(Court seal)

**NOTICE OF APPEAL**

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at (place where Federal Court of Appeal (or Federal Court) ordinarily sits).

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the Federal Courts Rules and serve it on the appellant's solicitor or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the Federal Courts Rules instead of serving and filing a notice of appearance.

Copies of the Federal Courts Rules, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

(Date)

Issued by:

Address of local office:

TO: THE ATTORNEY GENERAL OF CANADA,  
284 Wellington Street, Ottawa, Ontario K1A 0H8

## **APPEAL**

This is an appeal pursuant to section 27(1)(a) of the Federal Courts Act.

THE APPELLANT APPEALS to the Federal Court of Appeal from the Order of Justice Go of the Federal Court, dated December 12, 2023, by which the Appellant's application for judicial review of the Veterans Review and Appeal Board decision 100004917561, dated June 9, 2023, denying reconsideration of its previous decision, was dismissed.

THE APPELLANT ASKS to set aside the judgement of Justice Go on Federal Court file T-1474-23 dated December 12, 2023 and return the matter back to the Veterans Review and Appeal Board (VRAB) for assessment of the Appellant's claimed condition of cardiorespiratory impairment.

THE GROUNDS OF APPEAL are as follows.

1. The Appellant believes the following decisions of Justice Go were palpable and overriding errors:
  - 1.1. Conclusion that the Appellant has failed to prove his allegations of bias with respect to the Reconsideration Panel.
  - 1.2. Evaluation of Dr. Stuart's report dated April 17, 2018 as insignificant evidence to support the Appellant's claim.
  - 1.3. Conclusion that Veterans Review and Appeal Board was correct in finding no evidence in support a change in the current rating of the Appellant's disability.
  - 1.4. Conclusion that the Reconsideration Panel's reasons meet the hallmarks of intelligibility, transparency and justification.
2. The Appellant believes that Justice Go was incorrect in finding that the Reconsideration Panel did not commit a reviewable error by not taking into account multiple medical evidence supporting the Appellant's claim and not drawing every reasonable inference in favour of the Appellant contrary to section 39 of the Veterans Review and Appeal Board Act.
3. The Appellant believes that Justice Go was incorrect in conclusion that the Appeal Panel at reconsideration did not have jurisdiction over the Appellant's claim for cardiorespiratory impairment as the Panel was restricted only to section 32(1) of the Veterans Review and Appeal Board Act and was not subject to sections 26 and 29 of the same Act.

THE APPELLANT proposed the hearing of the appeal to be held in Edmonton, Alberta.

January 7, 2024



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