



Australian Government

Defence Honours and Awards Appeals Tribunal

Kevin Vallis and the Department of Defence [2014] DHAAT 23 (18 June 2014)

File Number(s) 2013/020

Re **Mr Kevin Vallis**
 APPLICANT

And **Department of Defence**
 RESPONDENT

Tribunal Mr J. Jones AM (Presiding Member)
 Dr J. Harte

Hearing Date 25 February 2014

DECISION

On 18 June 2014 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Kevin Vallis is not eligible for the award of the General Service Medal 1918-1962 with Clasp 'Bomb and Mine Clearance 1945-56'.

CATCHWORDS

DEFENCE AWARD – Refusal to award the General Service Medal 1918-1962 with Clasp 'Bomb and Mine Clearance 1945-56' for RAAF service in Darwin in 1949.

LEGISLATION

*Defence Act 1903 – ss 110T, 110V, 110VA and 110VB(2)
Defence Force Regulations 1952 - reg 93C and Schd 3
General Service Medal 1918-62 SE Asia - Minesweeping/Bomb and Mine Clearance - Amended - United Kingdom Command Paper 7035*

REASONS FOR DECISION

Introduction

1. The applicant, Mr Kevin Vallis, a former member of the Royal Australian Air Force (RAAF), seeks review of a decision of the Directorate of Honours and Awards (the Directorate), to refuse to recommend him for the award of the General Service Medal 1918-62 (GSM) with Clasp 'Bomb and Mine Clearance 1945-56'. Mr Vallis made his application for the award on the basis of his service in the RAAF in Darwin.

2. Mr Vallis lodged applications with the Directorate of Honours and Awards for the award of the GSM with Clasp 'Bomb and Mine Clearance 1945-56' on 24 March 2002 and again on 6 January 2013. On 21 May 2002, and subsequently on 17 June 2013, the Directorate refused his applications. On 29 June 2013, Mr Vallis lodged an application for review with the Defence Honours and Awards Appeals Tribunal (the Tribunal) to appeal the Directorate's refusal to award him the GSM with Clasp 'Bomb and Mine Clearance 1945-56'.

Tribunal Jurisdiction

3. The Tribunal has jurisdiction to hear and determine Mr Vallis' application for review (see ss 110T, 110V, 110VA and 110VB(2) of the *Defence Act 1903* and reg 93C of the *Defence Force Regulations 1952*). The role of the Tribunal is to determine whether the decision of the Directorate is the correct and preferred decision having regard to the applicable law and the relevant facts.

Steps taken in the conduct of the Review

4. In accordance with its *Procedural Rules 2011*, on 22 July 2013, the Tribunal wrote to the Secretary of the Department of Defence informing him of Mr Vallis' application for review and requesting that he provide a report. On 15 August 2013, the Directorate, on behalf of the Secretary, provided the Tribunal with a report. In that report, the Directorate confirmed its position that Mr Vallis' service did not meet the eligibility criteria for the award he sought. On 27 August 2013 a copy of the report of the Directorate was forwarded to Mr Vallis for comment. Mr Vallis made comment on the Defence submission on 9 October 2013.

5. The Tribunal met on 25 February 2014. During its meeting the Tribunal considered the material provided by Mr Vallis and the Directorate. It also heard oral evidence from Mr Vallis.

Eligibility criteria for the award of the General Service Medal 1918-62 with Clasp 'Bomb and Mine Clearance 1945-56'

6. The eligibility criteria for the GSM with Clasp 'Bomb and Mine Clearance 1945-56' is contained in the *General Service Medal 1918-62 SE Asia – Minesweeping / Bomb and Mine Clearance - Amended - United Kingdom Command Paper 7035* of February 1947.

7. Clauses 7 to 10 of Command Paper 7035 relate to minesweeping, bomb and mine clearance. Of note is Clause 8(v), which specifies that:

to qualify for the award a soldier must have actively engaged for an aggregate of not less than 180 days on the actual excavation down to, removal of, or final disposal of, unexploded bombs or on clearance operations inside the perimeter fencing of live minefields, on the disarming of live mines, or acting as water-jet operator. Other services in a Unit engaged on bomb disposal or beach mine clearance will not be counted as qualifying service.

8. Further, Clause 9(i) states that:

Any Officers, ratings or airmen of the Navy or Air Force engaged in bomb or mine clearance on land will qualify under the same conditions as those for the Army.

9. The service mentioned in Clause 8(v), as specified in Clause 9(iii), must have been carried out in specific zones of operation, namely the Queensland Coast, Solomon Islands (Australian Mandate and British Protectorate), New Guinea (Trust Territory) and Papua.

Mr Vallis' Service Record

10. Mr Vallis enlisted in the RAAF on 1 December 1947 and was discharged at his own request on 2 October 1953. He served with various units at Richmond, Rathmines, Helidon, Woomera, Cocos Island, Darwin and Canberra during that time.

11. Mr Vallis' service record indicates that he served with the Special Bomb Disposal Squad between 19 July 1948 and 19 October 1948¹ whilst serving in Darwin on attachment from 3 Central Reserves (3CR). During this time he was involved in the removal and disposal of unexploded bombs and the clearance and disarmament of live mines. On 22 October 1948, whilst still in Darwin, he participated in the extinguishment of a 500 lb bomb which had been ignited by a grass fire. His participation in the incident led to him being awarded the British Empire Medal (Military Division) for his actions.

12. For his service with 2 Airfield Construction Squadron on Cocos Island between 21 December 1951 and 16 August 1952, Mr Vallis was awarded the Australian Service Medal (ASM) 1945-75 with Clasp 'SW Pacific'. In addition to the ASM, he has subsequently been awarded the Australian Defence Medal.

Mr Vallis' Case

13. Mr Vallis' case is based on his belief that he deserves the GSM with Clasp 'Bomb and Mine Clearance 1945-56' for his service for several months in 1949 with

¹ During the hearing on 25 February 2014, Mr Vallis stated that he was in Darwin between July and September 1949 and that the records are incorrect. The Tribunal has examined the Record of Service of Mr Vallis provided by Defence and found that it shows his service in Darwin to be during 1948. The Tribunal noted that Mr Vallis' eligibility for the medal he seeks would not change if it were to be established that he was in Darwin in 1949.

the Special Bomb Squad in Darwin. Mr Vallis does not argue that his service makes him eligible for the medal under the current regulations. Rather, he is of the view that the legislation should be changed to include Darwin in the stipulated zones of operation.

14. Mr Vallis further states in his letter to the Tribunal of 29 June 2013, that *"the reason for my application was to enable me to apply for a [Department of Veterans' Affairs] pension for injuries sustained during my service..."* This was confirmed during the Hearing on 25 February 2014.

The Directorate's Case

19. In its written submission to the Tribunal, the Directorate responded to Mr Vallis' claim for the award. The Directorate advised that Mr Vallis does not qualify for the GSM 1918-62 with Clasp 'Bomb and Mine Clearance 1945-56' *because he did not meet the eligibility criteria specified in General Service Medal 1918-62 SE Asia-Minesweeping/Bomb and Mine Clearance -Amended - United Kingdom Command Paper 7035, pertaining to the GSM 1918-62 WITH Clasp 'Bomb and Mine Clearance'.*

Tribunal Consideration

20. The Tribunal considered all the material before it, including the criteria for the GSM with Clasp 'Bomb and Mine Clearance 1945-56', and finds that Darwin is not included in the eligibility criteria of the award. In accordance with the rules set out in *Command Paper 7035*, the decision to not award the medal is correct.

22. The Tribunal did not consider Mr Vallis' case for veterans' entitlements as this is outside its jurisdiction.

DECISION

23. The Tribunal has decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Kevin Vallis is not eligible for the award of the General Service Medal 1918-1962 with Clasp 'Bomb and Mine Clearance 1945-56'.