



Australian Government

Defence Honours and Awards Appeals Tribunal

Francis and the Department of Defence [2025] DHAAT 3 (12 March 2025)

File Number(s) 2024/06

Re **Mr Bradley Raymond Francis**
Applicant

And **The Department of Defence**
Respondent

Tribunal Ms Karen Fryar AM (Presiding Member)
Major General Mark Kelly AO DSC (Retd)

Hearing Date 21 January 2025

Attendance **Mr Bradley Francis Applicant**

DECISION

On 12 March 2025, the Tribunal decided to affirm the decision that Mr Bradley Francis should not be recommended for the Australian Defence Medal.

CATCHWORDS

DEFENCE AWARD – Australian Defence Medal – eligibility criteria – initial enlistment conditions not met – meaning of initial enlistment period – calculation of years – definition of ‘year’ and ‘day’- no discretion.

LEGISLATION

Defence Act 1903 – Part VIIIIC – Sections 110T, 110V(1), 110VB(2), 110VB(6)

Defence Regulation 2016, Regulation 36

Commonwealth of Australia Gazette S48, of 30 March 2006, Australian Defence Medal Regulations Letters Patent, dated 20 March 2006.

Commonwealth of Australia Gazette S215, of 17 October 2008, Australian Defence Medal Regulations Governor-General Determination, dated 1 September 2008

Australian Defence Medal, Chief of the Defence Force Determination, dated 6 February 2013

Introduction

1. The Applicant, Mr Bradley Francis, seeks review of a decision, dated 2 September 2013, of the Department of Defence, to refuse to recommend him for the Australian Defence Medal.¹

Decision under review

2. On 25 April 2013, Mr Francis submitted an application to the Directorate of Honours and Awards in the Department of Defence for an assessment of his eligibility for the Australian Defence Medal. On 12 September 2013, the Directorate wrote to Mr Francis to advise him he was not entitled to the Australian Defence Medal as he did not complete his two years of enlistment service.²

3. On 24 April 2024, Mr Francis made application to the Tribunal seeking review of the above decision.³

Tribunal jurisdiction

4. Pursuant to s110VB(2) of the *Defence Act 1903* the Tribunal has jurisdiction to review a reviewable decision if an application is properly made to the Tribunal. The term *reviewable decision* is defined in s110V(1) and includes a decision made by a person within the Department of Defence to refuse to recommend a person for a defence award in response to an application. Regulation 36 of the *Defence Regulation 2016* lists the defence awards that may be the subject of a reviewable decision. Included in the defence awards listed in Regulation 36 is the Australian Defence Medal. Therefore, the Tribunal has jurisdiction to review decisions in relation to this award and in particular, the Tribunal has jurisdiction to review the Directorate's decision of 12 September 2013 in relation to Mr Francis' application.

Mr Francis' service

5. Mr Francis enlisted in the Active Citizen Air Force on 24 November 1973 for a period of two years to be followed by a transfer of five years to the Reserve, and was discharged 'without transfer to the Reserve' on 3 March 1975, having served for a period of one year, three months and eight days.

6. The 'Reserve' referred to was the General Reserve component of the Royal Australian Air Force in which members had no obligation to render service but remained enlisted for a given timeframe. It was an iteration of today's Standby Reserve.

7. Mr Francis rendered his Active Citizen Air Force service as a member of the Royal Australian Air Force 23 Squadron, based at Amberley, Queensland. While not recorded in his service history, based on his employment circumstances at the time, as cited in his submission to the Tribunal and in accordance with his evidence before the Tribunal during the hearing of this matter, it was clear that Mr Francis requested his discharge.

8. Mr Francis has not been issued any awards for his service with the Active Citizen Air Force.

¹ Letter, Defence to Mr Francis dated 2 September 2013.

² Ibid.

³ Application for Review to Tribunal from Mr Bradley Francis, dated 24 April 2024.

Eligibility Criteria for the Australian Defence Medal

Letters Patent and Regulations

9. In accordance with the *Australian Defence Medal Regulations 2006*, as amended, in order to be eligible for the Australian Defence Medal, a member or former member of the Defence Force who served after 3 September 1945, must have rendered the minimum annual qualifying service that is efficient service by completing an initial enlistment or appointment period, or a period of or totalling not less than four years' service.⁴

10. The eligibility criteria for awarding the Australian Defence Medal is contained in paragraph 4(1) of the Regulations extant at the time of the making of the reviewable decision, (2 September 2013) which states:

4 Award of the Medal

(1) The Medal may be awarded to a member, or former member, of the Australian Defence Force who after 3 September 1945 has given qualifying service that is efficient service:

(a) by completing an initial enlistment period; or

(b) for a period of not less than 4 years service; or

(c.) for periods that total not less than 4 years; or

(d) for a period or periods that total less than 4 years, being service that the member was unable to continue for one or more of the following reasons:

(i) the death of the member during service;

(ii) the discharge of the member as medically unfit due to a compensable impairment;

(iii) the discharge of the member due to a prevailing discriminatory Defence policy, as determined by the Chief of the Defence Force or his or her Delegate;

(2) For sub regulation (1) the Chief of the Defence Force or his or her Delegate may determine that a period of the member's qualifying service is efficient service

11. On 6 February 2013, the Chief of the Defence Force made a Determination under the Regulations *to determine the minimum annual periods of service to be completed by members to be those shown in the attached Schedule.*⁵ For members of the Royal Australian Air Force Active Reserve, who served prior to 19 April 2000, the minimum period of qualifying service was 32 days per year.

⁴ *Commonwealth of Australia Gazette S48*, of 30 March 2006, *Australian Defence Medal Regulations Letters Patent*, dated 20 March 2006.

⁵ *Australian Defence Medal, Chief of the Defence Force Determination*, dated 6 February 2013.

12. In 2020, since the time of making the reviewable decision, paragraph 4(1)(d) of the eligibility criteria was amended to read:

d) for a period or periods that total less than 4 years, being service that the member was unable to continue for one or more of the following reasons:

- (i) the death of the member during service;*
- (ii) the discharge or termination of the member as medically unfit;*
- (iii) the discharge or termination of the member due to a prevailing discriminatory Defence policy, as determined by the Chief of the Defence Force;*
- (iv) the member ceased service in the Permanent Force or Reserves of the Defence Force and mistreatment by a member of the Defence Force or an employee in the Department of Defence was a significant factor.”[...]”⁶*

Mr Francis’ application to the Tribunal

13. In his application to the Tribunal, Mr Francis detailed his family’s service history. He stated that his grandfather served in the Second World War and that his father served in the Royal Australian Air Force for 28 years and was made a Member of the British Empire. Mr Francis further stated that at the time of enlisting in the Citizen’s Air Force he was also studying at the Kelvin Grove College of Advanced Education (in Queensland), *which required a large amount of travelling from Amberley.*

14. Mr Francis stated:

At the completion of my study, I was unsure where the system would transfer me to. I was appointed the principal of Teelba State School 450 kilometres West of Brisbane down 40 kilometres of dirt in 1976 and then Clarke Creek State School 833 Kilometres North of Brisbane and half way between Rockhampton and Mackay from 1977 to 1979. This made it difficult to complete any further service.

It has been recorded that I was a member of the Citizen’s Air Force from the 24th of November 1973 to the 3rd of March 1975. I seek to have the decision based around my original application of the 25th of April 2013 reconsidered and bestowed the Australian Defence Medal.⁷

15. In his original application dated 25 April 2013,⁸ Mr Francis had not provided any supporting documents, however, he had written in section 10 of the form *that he served with 23 Squadron from 1973 to 1974 in the Reserve.* Further down the form in section 12, which asked *Do you have less than four years service?* to which Mr Francis wrote in the box ‘other’ *Term of Enlistment completed.*

⁶ Commonwealth of Australia Gazette, G00629, of 4 August 2020, *Australian Defence Medal Regulations, Amendment of Letters Patent by Governor-General* dated 13 July 2020.

⁷ Application for Review to Tribunal from Mr Bradley Francis, dated 24 April 2024.

⁸ Defence Report.

16. Mr Francis' service records show that he only served from 24 November 1973 to 3 March 1975, a period totalling one year, three months and eight days of a two year enlistment.⁹

Defence report

17. The Defence report confirmed that following Mr Francis' application to the Tribunal, the Directorate reviewed the original decision from 2013 and re-assessed his eligibility for the Australian Defence Medal and that the re-assessment supported the original decision to not recommend him for the Australian Defence Medal.¹⁰

18. Defence submitted that Mr Francis did not transfer to the Reserve. It stated *the employment/transfer circumstances outlined in Mr Francis' submission are not uncommon in relation to part-time Defence service. Regrettably, Defence does not have establishments in every area of Australia which often results in difficult choices arising about continued service when primary employment is in a non-Defence establishment location.*

19. Defence further stated that an examination of the 23 Squadron Personnel Occurrence Report, and Unit History Sheets for March 1975¹¹ *identified that Mr Francis was discharged on 03 March 1975; however no amplifying details were evident. There are no provisions in the Regulations to award the ADM under the cited circumstances that resulted in Mr Francis' discharge.*

20. Defence submitted that Mr Francis rendered one year, three months and eight days service with the Active Citizen Air Force and was discharged, presumably, at his own request. As such, in Defence's submission, Mr Francis did not complete his enlistment period of two years nor a total of four years' service.

21. Having regard to the current eligibility criteria for the Australian Defence Medal, Defence stated that Mr Francis did not discharge under provisions contained in subparagraphs 4(1)(d)(i-iii) of the *Australian Defence Medal Regulations*, as amended. Defence also stated that there was no evidence or information that mistreatment by a member of the Defence Force or an employee of the Department of Defence was a significant contributing factor to Mr Francis ceasing service (subparagraph 4(1)(d)(iv) of the *Australian Defence Medal Regulations*, as amended).¹²

22. Defence recommended that the decision to not recommend Mr Francis for the Australian Defence Medal be affirmed.

Mr Francis' comments on the Defence report

23. On 3 June 2024, Mr Francis was provided with a copy of the Defence report and asked to provide his comments on that report. Mr Francis replied via email on 16 July 2024, reiterating his view that:

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

In review of my decision DHAAT/OUT/2024/061, DHAAT/REVIEW/2024/006 appealing the decision not to award me with the Australian Defence Medal I am disappointed with the results bearing in mind my family's service. It was not clear to me that the Defence Department was asked to review the original decision they made on the 25th of April 2013.

I was in no way informed that my ACAF service was conditional on where my full time work took me. Once I graduated from Kelvin Grove Teachers College in 1974 I was appointed to Leichhardt State School (Ipswich) in 1975, Teelba State School (South West QLD 445 km West of Brisbane) and then Clarke Creek State School (830 km north of Brisbane between Rockhampton and Mackay).

I was unaware of where my appointment in the teaching service would take me and obviously there was no establishment I could be appointed to once I graduated and was appointed to some of these schools.

Defence recognizes that employment/ transfer is not uncommon in fulltime work. At the time of enlistment I was unaware of where the teaching service could take me.

Tribunal analysis

24. The hearing was held on 21 January 2025. Mr Francis, in his evidence, emphasised the rich heritage in his family of support for the Australian Defence Force. Both his father and grandfather had service histories, and Mr Francis regularly attends Anzac Day services.

25. Mr Francis confirmed his past employment as a teacher and advised that he was told that he needed to go to remote locations if he wanted to be promoted in the teaching service. It then became impossible for him to continue with his service in the Active Citizen Air Force as there were no available relevant Defence locations.

26. Mr Francis stated that it would be nice if his Active Citizen Air Force service could be recognised, but that he felt discriminated against because of the profession he chose and that there was nothing in place to allow adjustments to be made by Defence.

27. At the hearing the representatives from Defence confirmed the Defence position that Mr Francis had not completed the required number of days service to qualify for the award of the Australian Defence Medal.

28. The Tribunal confirmed to Mr Francis that although it acknowledges his family history of service and indeed thanks him for his own service in Active Citizen Air Force and the teaching service, the Tribunal had no discretion to take those matters into account when considering his application as it was bound by the criteria set out in the relevant regulations and determinations.

29. At the conclusion of the hearing it was however suggested to Mr Francis that although he was not eligible for the award of the Australian Defence Medal, he did have the ability to apply through the Department of Veterans' Affairs for the Australian Defence Veterans' Covenant.

30. As an Australian Defence Force Reservist he would receive a copy of the Oath, which could be framed, and an Australian Defence Force Reservist Lapel Pin. Mr Francis would be entitled to wear his Lapel Pin on his left lapel at any time, but especially at commemorative services such as the Anzac Day ceremonies that he regularly attends. This Lapel Pin would identify him as someone who had proudly served his country as a Reservist. The details for applying for the Australian Defence Veterans' Covenant are available on the Department of Veterans' Affairs website.

Tribunal decision

31. The Tribunal found that Mr Francis had not fulfilled the eligibility criteria for the award of the Australian Defence Medal. Nor do any of the regulatory exceptions apply in his case.

32. Accordingly the Tribunal affirmed the decision of the Department of Defence of 12 September 2013 that Mr Francis is not eligible for the award of the Australian Defence Medal.