



AAT Bulletin

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The *AAT Bulletin* is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions. The Bulletin occasionally includes information on legislative changes that affect the AAT and other important developments.

It is recommended that the Bulletin be read on-line. This has the advantage of allowing the reader to use hyperlinks to access the full text of cases and other internet sites mentioned in the Bulletin.

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AAT Recent Decisions

This section of the Bulletin provides information about decisions recently published by the AAT. Only AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

Compensation

[Bassili and Prosecur Australia Pty Ltd](#) [2014] AATA 853, 14/11/2014; Senior Member E Fice

Shoulder injury – injury simpliciter – lifting bags of heavy coins – chronic calcific tendinopathy – calcific rotator cuff disease – constitutional condition – radiological evidence – aggravation of existing ailment – decision affirmed

[Ford and Military Rehabilitation and Compensation Commission](#) [2014] AATA 858; 20/11/2014; Deputy President SD Hotop

MILITARY COMPENSATION – applicant rendered warlike service/non-warlike service – applicant claimed for acceptance of liability for cavernous angioma – respondent refused to accept liability for “intracerebral haemorrhage (date of onset 20 September 2011)” – applicant suffered right pontine cavernous angioma on 18 September 2011 (injury) – Statement of Principles does not uphold hypothesis connecting injury with circumstances of applicant’s service – material before Tribunal does not raise reasonable hypothesis connecting injury with circumstances of applicant’s service – Tribunal satisfied that no sufficient ground for determining that injury a service injury – injury not a service injury – decision under review varied

[Foster and TNT Australia Pty Ltd](#) [2014] AATA 852; 14/11/2014; Senior Member GD Friedman

Truck driver – chronic adjustment disorder with mixed anxious and depressed mood, drug dependency – previous left elbow injury – whether psychological condition arose out of or in the course of employment – whether employment contributed to psychological condition to significant

Defence

[Delahunty and Commonwealth Superannuation Corporation](#) [2014] AATA 864; 3/10/2014; Deputy President AG Melick SC

Defence force retirements and death benefits – applicant’s retiring impairment at date of discharge – percentage of incapacity in relation to civil employment – decision set aside and substituted

Practice and Procedure

[Soames and Secretary, Department of Social Services](#) [2014] AATA 856; 17/11/2014; Senior Member JF Toohey

Practice and procedure – previous application dismissed as vexatious – applicant not to make certain further applications without leave – application for leave – whether applicant should be granted leave – previous submissions restated – no new information – leave to make application refused

Social Security

[Campbell and Secretary, Department of Social Services](#) [2014] AATA 857; 19/11/2014; Senior Member PW Taylor

Disability support pension – Conditions which do not receive points under Impairment Tables – No severe impairment – Condition of depression not fully treated or stabilised – No continuing inability to work – Decision under review affirmed

[Collin and Secretary, Department of Social Services](#) [2014] AATA 861; 20/11/2014; Dr P McDermott RFD, Senior Member

Family Tax Benefit – FTB – Lump sum payment – Application lodged outside of time limitation – Whether application should be allowed – Provision does not confer discretion upon Secretary to extend time to lodge claim – Decision under review affirmed.

[Elhenday and Secretary, Department of Social Services](#) [2014] AATA 855; 17/11/2014; Senior Member JF Toohey

Disability support pension – serious injury at work – back, neck and shoulder impairments – psychological condition – reflux – whether conditions fully diagnosed treated and stabilised – not all conditions fully treated and stabilised during the relevant period – no single condition rating 20 or more points – applicant had not completed program of support – decision under review affirmed

[JYJF and Secretary, Department of Social Services](#) [2014] AATA 862; 20/11/2014; Dr P McDermott RFD, Senior Member

Disability Support Pension – DSP – Impairment points – Continuing inability to work did not exist at date of cancellation – Decision under review affirmed.

[VHTH and Secretary, Department of Social Services](#) [2014] AATA 860; 20/11/2014; Dr P McDermott RFD, Senior Member

Newstart Allowance – Income maintenance period – Ordinary income – Termination payment – Financial hardship – Special benefit – Decision under review affirmed.

Taxation

[Agius and Commissioner of Taxation](#) [2014] AATA 854; 17/11/2014; Deputy President SE Frost

income tax – default assessments – whether applicant was a resident of Australia – source of income – burden of proof – imposition of administrative penalty – whether return required to be lodged – remission of penalty – objection decisions affirmed

Veterans' Affairs

[Paton and Repatriation Commission](#) [2014] AATA 863; 21/11/2014; Senior Member PW Taylor SC

Disability pension – depressive conditions – whether conditions are service related – decision set aside and remitted

Appeals

This section of the Bulletin provides information about appeals against AAT decisions that have been lodged or finalised. Only appeals in relation to AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

Appeals lodged

CASE NAME	AAT REFERENCE
Cloros v Department of Social Services	[2014] AATA 716
Hutchinson v Comcare	[2014] AATA 588

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
None finalised		

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