

GENERAL INFORMATION	
KEYWORDS	Marine medical certificate, diabetes, heart disease, implantable cardioverter defibrillator (ICD)
FILE NO.	MH-0367-28
SECTOR (Marine or Aviation)	Marine
SPECIFIC JOB	Master mariner
DIAGNOSIS (Primary, Secondary, etc.)	Primary: Type II Diabetes Secondary: Progressive and serious heart disease
REVIEW	
DATE OF DETERMINATION	May 20, 2015
MEMBER	Dr. Christopher Brooks
DETERMINATION	The Minister's decision is confirmed.
REASONS FOR THE DETERMINATION	Refusal to issue a marine medical certificate (MMC) — The applicant developed Type II Diabetes in 2009 and, in 2012, he was noted to have experienced a so-called "silent" heart attack. His cardiac condition has since continued to deteriorate, to the extent that in 2014, he was fitted with an implanted cardioverter defibrillator (ICD). From the evidence presented by the Minister's expert witness, he determined that the applicant is at more than 1% risk of a future cardiac event. As such, in accordance with the IMO/ILO guidelines, this finding on its own provides a basis to consider the applicant no longer fit to hold an MMC. The Minister also stated that in the applicant's critical position as the master of the vessel, for his own safety and the safety of the crew, he should not be issued an MMC. The member agrees with this conclusion and confirms the Minister's decision not to issue the applicant an MMC.
APPEAL	
DATE OF DECISION	February 22, 2017
MEMBERS	Dr. George Pugh, Ms. Sarah Kirby, Mr. Yves Villemaire
DECISION	Appeal dismissed; Minister's decision upheld.
REASONS FOR THE DECISION	At the appeal level, the panel of three Tribunal members can consider errors of fact or law that occurred at the initial hearing. New evidence may be accepted at the appeal hearing only if the appeal panel is satisfied that the evidence was not available for the review hearing and is necessary for purposes of the appeal. In this hearing, no such evidence was submitted. The grounds for appeal raised by the appellant can be summarized as follows: he alleges there were incorrect statements in the evidence given by Transport Canada's doctor at the review hearing. The argument that he was unprepared or unfamiliar with the review mechanism cannot be considered a ground for appeal. Since the grounds raised by the appellant in this appeal involve issues of fact, the panel will consider the review

	<p>member's approach to these issues on a standard of reasonableness.</p> <p>The panel finds that the member, a physician himself, was not influenced by the choice of words used by Transport Canada's doctor or by his own error regarding the normal reference range for ejection fraction. The member's analysis stated that the appellant was not a well man and that he required an ICD to reduce his risk of a future cardiac event. The member's determination was made considering the facts presented at the review hearing, and it is those facts which must be considered by the appeal panel in evaluating the reasonableness of the member's determination. Any changes in the appellant's condition since that time cannot properly be considered in this forum. This panel agrees that the review member had arrived at a reasonable determination after consideration of all the facts presented to him.</p>
OTHER/COMMENTS	