

GENERAL INFORMATION	
KEYWORDS	Aviation medical certificate, mental health, psychiatric medication
FILE NO.	P-3917-28
SECTOR (Marine or Aviation)	Aviation
SPECIFIC JOB	Physician, Medical Health Officer, Interior Health District
DIAGNOSIS (Primary, Secondary, etc.)	Obsessive compulsive disorder and anxiety
REVIEW	
DATE OF DETERMINATION	May 29, 2014
MEMBER	Dr. George Pugh
DETERMINATION	The member confirms the Minister's decision to refuse to issue a medical certificate.
REASONS FOR THE DETERMINATION	Refusal to issue an aviation medical certificate — the applicant was diagnosed with “obsessive compulsive disorder and anxiety” and the disorders were treated with four different medications, including clonazepam (5 mg), mirtazapine (5 mg), venlafaxine (15 mg), and bupropion (Wellbutrin) (150 mg), and that the condition has been stable for 12 years. Both of the Minister of Transport's witnesses stated that clonazepam and mirtazapine have the side effect of sedation. Venlafaxine could cause either sedation or mental alertness, while bupropion is a stimulant. The member finds that the established medical clinical diagnosis implies a chronic condition that is never very far under the surface. The requirement of four medications to keep symptoms at bay suggests a hazard that is likely to interfere with the safe operation of an aircraft. The Minister has established that the medical policy in place at the time of issuing the decision was fairly and duly applied. The member confirms the Minister's decision to refuse to issue a medical certificate.
APPEAL	
DATE OF DECISION	December 16, 2014
MEMBERS	Dr. John Sehmer, Arnold Olson, Stephen Rogers
DECISION	The appeal is dismissed; the Minister's decision confirmed.
REASONS FOR THE DECISION	The appeal panel finds that the member reasonably considered the medical facts as presented. The appeal panel finds that the member did not err by allowing a medical policy of the respondent to fetter his discretion in reaching his conclusion, as there is ample evidence that the doctor had an individual assessment in this case. The appeal panel finds that the member did not err by failing to adequately consider the <i>Canadian Charter of Rights and Freedoms</i> and lacks the jurisdiction to consider complaints regarding the <i>Canadian Human Rights Act</i> .

	<p>The appellant has not satisfied the panel that the findings of the review member were unreasonable. Accordingly, the panel upholds the review determination that the refusal to issue a medical certificate was appropriate and necessary in the interests of aviation safety.</p>
OTHER/COMMENTS	
<p>This file was subject of a judicial review from Federal Court. See <i>Corneil v. Canada (Transportation Appeal Tribunal)</i>, 2015 FC 755. The application for judicial review was dismissed.</p>	