

GENERAL INFORMATION	
KEYWORDS	Category 1 aviation medical certificate, diabetes, renal failure
FILE NO.	Q-4361-01
SECTOR (Marine or Aviation)	Aviation
SPECIFIC JOB	Unknown
DIAGNOSIS (Primary, Secondary, etc.)	Primary: Diabetes with complications Secondary: Significant progressive renal failure that has reached stage 4 Nephropathy
REVIEW	
DATE OF DETERMINATION	May 23, 2018
MEMBER	Dr. Robert Perlman
DETERMINATION	The Minister's decision is confirmed.
REASONS FOR THE DETERMINATION	Suspension due to the refusal to renew a category 1 aviation medical certificate — The applicant was diagnosed with diabetes in June 2013. In 2014, a new report indicated the onset of a kidney problem due to elevated creatinine levels. Additional reports were requested by Transport Canada and submitted by the applicant. It was concluded that the information was insufficient to conclude that his medical condition was stable and consistent with aviation safety. The Minister of Transport has made it clear that the applicant could potentially obtain a restricted licence if the Minister is satisfied that the diabetes and stage 4 Nephropathy remain stable for a sufficient period of time. The Tribunal recommends that the Minister obtain the results of additional examinations that will be carried out for the next three to six months, as indicated by the two nephrologists.
APPEAL	
DATE OF DECISION	November 20, 2019
MEMBERS	Patrick Vermette, John Gradek, Dr. Peter Seviour
DECISION	The appeal is dismissed; the Minister's decision is upheld.
REASONS FOR THE DECISION	<p>In this case, the first ground of appeal relates to the application of principles of natural justice by the review member, specifically whether the member allowed the applicant to be fully heard at the review hearing and whether he acted impartially. These are issues of procedural fairness. The standard of correctness applies to this ground of appeal. The second ground of appeal relates to the weight given by the review member in his decision to the evidence presented by both parties at the review hearing. The standard of reasonableness applies to this ground of appeal.</p> <p>The appeal panel is of the view that the review member allowed the appellant to make all his representations during the review hearing. The review member presided over the hearing in an entirely proper manner</p>

	<p>and in accordance with the rules of the Tribunal and subsection 7.1(6) of the <i>Aeronautics Act</i> which provides that the member shall give the Minister of Transport and the person affected by the decision an opportunity consistent with procedural fairness and natural justice to present evidence and make representations in relation to the item under review. He allowed both parties to present their evidence and explain their positions. The appellant also failed to demonstrate during the appeal hearing the bias of the counsel that he alleges.</p> <p>The review member's conclusion that the suspension of the certificate was warranted given the lack of information regarding the nephropathy and the stability of the appellant's diabetes is reasonable and well grounded in the documentary and testimonial evidence presented during the review hearing.</p>
OTHER/COMMENTS	
<p>This file was subject to judicial review by the Federal Court. The application for review was dismissed. <i>Cotirta v. Canada (Attorney General)</i>, 2021 FC 211.</p> <p>There is presently an active case at the Federal Court of Appeal related to this file. The court number is A-77-21.</p>	