

GENERAL INFORMATION	
KEYWORDS	Category 3 aviation medical certificate, heart disease, pacemaker, restrictions
FILE NO.	Q-4286-01
SECTOR (Marine or Aviation)	Aviation
SPECIFIC JOB	Retired
DIAGNOSIS (Primary, Secondary, etc.)	Pacemaker dependent
REVIEW	
DATE OF DETERMINATION	July 9, 2018
MEMBER	Dr. Robert Perlman
DETERMINATION	The Minister's decision is confirmed.
REASONS FOR THE DETERMINATION	Refusal to renew a category 3 aviation medical certificate without restrictions — The applicant required the insertion of a cardiac pacemaker in 2017 due to the finding of symptomatic sick sinus syndrome. Both the initial attending cardiologist and subsequent cardiology reports indicated that the applicant was "pacemaker dependent". The Aviation Medical Review Board agreed that the applicant was pacemaker dependent, and that the "with co-pilot" restriction should be maintained. The risk to aviation safety in the event of pacemaker failure and sudden impairment of a solo pilot in command is highly significant. For operational and financial reasons, the applicant requested that his restriction be removed. However, it is clearly the mandate of the Minister of Transport to ensure aviation safety as the prime goal above all other considerations, including operational, financial, or inconvenience for the pilot. Therefore, the Minister's decision not to renew an unrestricted medical certificate is confirmed.
APPEAL	
DATE OF DECISION	February 26, 2020
MEMBERS	Dr. Christopher Brooks, Dr. Brian Wagg, Dr. Francis Hane
DECISION	The appeal is allowed. The appeal panel refers the matter back to the Minister for reconsideration.
REASONS FOR THE DECISION	<p>In his request for appeal, the appellant alleges that the review member was incorrect in finding that his risk of pacemaker failure was greater than 2% per year, and that this contravened the Transport Canada (TC) Handbook for Civil Aviation Medical Examiners. The appeal panel finds that these grounds are a matter of fact, and of mixed fact and law, respectively, and as such, these questions are subject to the standard of review of reasonableness.</p> <p>The appeal panel finds that the absence of any reference specifically to the TC Handbook in the review member's</p>

	<p>analysis is reason enough to conclude that the review determination was unreasonable.</p> <p>The appeal panel finds that there was not sufficient information for the review member to conclude that the Minister of Transport proved, on a balance of probabilities, that the decision to restrict the appellant's medical certificate was justified.</p> <p>The appeal panel finds that the review member's conclusion in his review determination that the appellant's risk of pacemaker failure was more than 2% per year was not reasonable, given the evidence.</p> <p>Furthermore, the appeal panel finds that the Minister's evidence does not support, on the balance of probabilities, a restriction on the basis of pacemaker dependency alone. It was not reasonable for the review member to conclude otherwise. Therefore, the appeal panel refers the matter back to the Minister for reconsideration.</p> <p>The appeal panel notes that it does not necessarily disagree with the fact the appellant's medical certificate should be restricted, albeit for reasons different than the Minister's reason of risk of dependent pacemaker failure. However, for any proposed restriction, there needs to be a robust evidence-based analysis, involving all parties, to justify the decision. This was lacking in the appellant's case.</p> <p>The appeal panel recommends that TC obtain a thorough cardiac update from the appellant's clinical team. Then, it is recommended that TC's medical team, including the cardiologist and the Regional Aviation Medical Officer, reassess his fitness to fly, with proper consideration of the national and international medical guidelines.</p>
OTHER/COMMENTS	