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Great Britain. Ministry of Pensions.

Publication/Creation

[London] : Ministry of Pensions, 1946.

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Pensions Appeal Tribunal (Assessment)

Min. of Pensions Reference : **B1/M4/2034**

Date of Hearing :

Date of Appeal : **5.12.46.**

P.A.T. Case No. :

Chief Regional Officer's Address :

Decision of Tribunal : 2

81, St. Mary's Place,
Newcastle-on-Tyne, 2.

STATEMENT OF CASE FOR HEARING

The appellant appeals against the following : **FINAL ASSESSMENT**

Disability or Disabilities	Entitlement	Assessment	Date made
EFFECTS OF EXPOSURE - MYALGIA	Attributable to Detention	6-14% Temporary, Less than a year	29.10.46

Name of Appellant : **FRISTON**
(Surname)**Harry**
(Christian Names)Address : **122, Stevenson Street, South Shields.**Present Age : **41**Rank : **A.B.**Official No. : **R. 89292.**Previous Occupation : **Bricklayer.**Present Occupation : **Bricklayer.**

SERVICE IN SHIPS DURING THE WAR (1939)

Name of Ship	Gross Tonnage	Rank	Dates	
			From	To
S. S. "COLUMBIA STAR"	8,293	A.B.	27. 9.39	12. 1.40
S. S. "BLYTHMOOR"	6,581	A.B.	8. 2.40	9. 4.40

Reason for Termination of Articles : **-**

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According to records, Mr. Friston served in the Merchant Navy prior to the outbreak of hostilities. In March 1940, whilst serving in the S.S. "Blythmoor" the vessel was sunk by the enemy at Narvik, Norway, the crew were captured and marched for fifteen days through snow to the border of Sweden where they were interned. During his internment the appellant received hospital treatment for "Back and Feet" and, following repatriation on 15.9.42, he claimed compensation in respect of this condition on 17.9.42. Ministry medical examination was effected, the report, and subsequent action in the case, are as follows:-

26. 9.42 Ministry Medical Board Report.

Diagnosis: Effects of Exposure and Detention.

History of the Case: As recorded above.

Recent history: Has seen his doctor since his return.

Complains of pain in back, difficulty in getting up after stooping. Pains in thighs and calves on standing. Cough with sputum.

On examination: Age 36. General condition good, not anaemic, teeth satisfactory - well nourished. Lungs, Heart, Abdomen, Central Nervous System - nil abnormal detected. Urine - nil abnormal detected. Back - No objective signs of anything except that tenderness is claimed on pressure, chiefly in left lower erector spinae. Movements of back are free and normal in range, no rigidity any area. States rising to erect position causes pain. Feet - Very slight degree of pes planus both feet. Colour and temperature normal. No evidence of vaso-motor disturbance. He wears instep supports supplied in Sweden. Mental - normal, emotionally stable. The pain in back is credited and would appear to be myalgic. He is not fit to go to sea. Effect on function: Moderate.

Disablement arising from "Effects of Exposure - Myalgia" accepted as Attributable to Detention and an award of a provisional allowance equivalent to disablement at 100% under Article 6(1) (A) and (B) of the War Pensions and Detention (Mercantile Marine) etc., Scheme, was granted from 16.9.42 inclusive.

21.12.42 Ministry Medical Resurvey Board Report.

Diagnosis: Effects of Exposure and Detention.

History of the case as previously recorded.

Recent History: Having no treatment. Has been working for past month - light work for Admiralty, de-gaussing ships.

Complains of pain in small of back. Right thigh muscle goes stiff and seems to lock if he stands any length of time.

On examination: Age 37. General condition as before.

Back: Tenderness claimed in left lower erector spinae as before. Movements of back perfectly normal, but claims pain on rotation to left, and on lateral flexion to right. Claims pain also in rising to erect position after stooping. X-ray:

Lumbar region and sacro-iliac joints - Nil. (Films available). Effect on function: Moderate.

Assessment reduced to 30%.

7. 6.43 Ministry Medical Resurvey Board Report.

Diagnosis: Effects of exposure and detention.

History as previously recorded.

Recent history: Gave up his shore job with the Admiralty - this work was too heavy for him and affected his back.

Has now started a very light job. Doing clerical work and odd repairs for a builder. Had an attack of Bronchitis and Pneumonia and Pleurisy in April, 1943. Was off work one month.

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(cont'd)

Complains of pain in small of back when stooping or after walking any distance. Has cough and morning spit. Weakness of right leg.

On examination: General condition fair. Somewhat pallid. Teeth satisfactory. No oral sepsis. Heart, Abdomen, Central Nervous System: Nil abnormal detected. Lungs: Percussion note resonant. Breath sounds somewhat harsh. A few scattered rhonchi both lungs. No other adventitia. Back: Tenderness to deep palpation over erector spinae muscles in lower dorsal and lumbar regions. Most marked on left side. Movements are full in range but rising from a flexed position against a little resistance causes pain. Feet: Cold, but normal colour. Arterial pulse good. Skin normal. Slight degree of pes planus. Joints of limbs normal. Condition one of persisting Myalgia. Effect on function: Slight.

Assessment reduced to 20%.

12. 6.44

Ministry Medical Resurvey Board Report.

Diagnosis: Effects of Detention. Lumbar Fibrositis.

History as previously recorded.

Recent history: Last examined 7.6.43. Since this date has been working ashore as a bricklayer and clerk. Has lost about one month during last 12 months because of back trouble.

Treatment by own doctor.

Complains of pain in lower lumbar region. Is unable to sit too long without back getting stiff and painful. Cannot lie on back in bed. Must lie on side.

On examination: Age 38 years. Small built stocky man.

Complexion pale. Nutrition is satisfactory. Teeth deficient and stained. Tongue: clean and moist. Heart: normal position. Sounds normal. Rhythm and rate regular.

Lungs: Slight bronchitis present. Abdomen: Nil abnormal detected. Central Nervous System: Marked exaggeration of all deep tendon jerks, otherwise nil abnormal detected.

Spine: Movements all full. Limits of all movements attended by pain (credited). Some spasm of erector spinae muscles. Tender on pressure over sacro-iliac joints. There appears to be some functional overlay in this case but there is present a quite definite myalgia of persistent nature.

Effect on function: Slight to moderate.

Assessment continued at 20%.

The Appellant commenced a course of physiotherapy at the Out-patient Department, Ingham, Infirmary.

30. 6.44

Ministry Medical Examination.

Complains: Feels no better since treatment commenced. "Has been told the curve in spine should be pulled out". Still has pain left side and middle of back.

Condition on examination: As at previous examination.

Treatment only commenced a fortnight ago. To continue for further 4 weeks.

2. 8.45

Ministry Medical Resurvey Board Report.

Diagnosis: Effects of Exposure. Myalgia.

History as previously recorded.

Recent History: Last examined 12.6.44. Since then has been doing clerical work and light bricklaying. States that since last Board he has lost 4 months work, the longest period being two months about Christmas. Has been attending Ingham Infirmary, South Shields for physiotherapy after last Board. Does not think he was permanently improved by this treatment which lasted 3 months.

Complains of aching in the lumbar region running up to between

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2. 8.45
(cont'd)

shoulder blades. If he stands for any time with weight on right foot, pain is aggravated. Cannot lie on back in bed. Is only comfortable lying on his side. Pain worse in damp weather. Is wearing a flannel body belt which he thinks helps.

On examination: Age 40. Height 5' 4". Weight 8st. 13 lbs. States was 9st. 5 lbs. a year ago. General condition: Small build. Moderate physique and nourishment. Pale but no definite anaemia. Teeth good. No pyorrhoea but marked staining. Tongue clean and moist. Heart: nil abnormal detected. Lungs: Rhonchi present, particularly left base. Breath sounds harsh. Abdomen: nil abnormal detected. Central Nervous System: Deep reflexes ++, otherwise nil abnormal detected. Spine: Some spasm of erector spinae and some kyphosis present. Spinal movements are all full. Pain is complained of on slowly rising to full extension from fully flexed position. Some tenderness over lumbar region on pressure. Lay comfortably on couch during examination without complaint and no pain complained of on sitting up. There is undoubtedly some persistent myalgia though on to-day's examination not markedly disabling. Feet: Some pes planus and deficient dorsi-flexion both great toes. Not wearing insteps now. Is losing a lot of work. Effect on function: Slight to moderate.

*Lying on couch
Not for long
Enough to cause
Pain*

Assessment continued at 20%.

20. 3.46

Ministry Medical Examination.

States cannot lie on back in bed. If lies on right side gets pains in lower part of back. Cannot sit in chair for aching pain. Hasn't troubled him for about two months until present attack which commenced two weeks ago.

Condition on examination: Age 40. No deformity of spine. Spasm of erector spinae muscles. Maintained in flexion extension, lateral flexion and rotation. Slight lordosis of lumbar spine through this contraction.

19. 5.46

Report by Ingham Infirmary, South Shields.

Condition on discharge: Progress only fair, not cured, but somewhat relieved and well enough to be treated with liniment under his own doctor. No septic focus. No evidence of inter-vertebral disc lesion.

Recommendation: To return to work.

17. 6.46

Ministry Medical Resurvey Board Report.

Diagnosis: Myalgia of back.

History of the case: as previously recorded.

Recent History: Has been working as a bricklayer for past 2½ years. Has lost about 4 months work due to his disability; longest period 4 weeks about a year ago.

Complains of stabbing pains in lower part of back; stiffness. Unable to lie on back.

On examination: Weight 9st. Height 5' 3½". Age 41.

General condition fair. All movements of spine are fully though slowly performed. There is some dorsal kyphosis and slight lumbar lordosis. There is slight tenderness over lumbar muscles and also slight rigidity. Knee jerks +.

Heart and Lungs: Nil abnormal detected.

Effect on function: Slight.

Assessment continued at 20%.

16.10.46

Ministry Medical Resurvey Board Report.

Diagnosis: "Myalgia - Back".

History of the case: As previously recorded.

Recent History: Employment: Bricklayer. In past year has worked nine, and been on sick on account of back, three months

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- 16.10.46 (cont'd) Has been working continuously past seven months, and not attended doctor for back.
Complains of pains across lower part of back, worse after bending, and is unable to lie on back.
On examination: Short, sturdy, thick set man, good physique. General condition and nutrition good. Heart: nil abnormal detected. Lungs: nil abnormal detected. Abdomen: nil abnormal detected. Central Nervous System: nil abnormal detected. Blood Pressure 138/85. Urine: Specific gravity 1020. Reaction - acid. Albumin - nil. Sugar - nil.
Back - All movements full and freely performed. Can bend forward and touch toes, can bend laterally and rotate spine, all without evincing pain.
Effect on function: Slight.

Assessment reduced to 6-14% Temporary, less than a Year.

- 5.12.46 Appeal lodged under Pensions Appeal Tribunal Act, 1943.

EVIDENCE IN CONNECTION WITH APPEAL

- 5.12.46 Reasons for appeal. That I am not fit, through my disablement and cannot lie on my back through aching pains and cannot lift anything heavy, which affects my back, and is most severe in bad weather, it also affects my job as a Bricklayer for if anything has to be lifted some other chap has to help me. And I cannot see any cure as the Infirmary Doctor has told me it depends on the atmosphere I am in. Also I cannot stand any cold weather through *its my ordeal I went through.*
- 26.11.46 Certificate by Approved Society.
Mr. Friston has been a member of this Society from 14.4.30 to date.
Periods of certified incapacity since 30.12.42:
23. 1.43 to 13. 2.43 Bronchitis.
10. 3.43 to 10. 4.43 Pneumonia.
3. 1.45 to 13. 1.45 Lumbago.
- 27.11.46 Certificate by Medical Attendant.
The first date on which Mr. Harry Friston had medical advice was 21st September, 1942, and he was suffering on that date from Bronchitis. My records show subsequent treatment as under:
1942 Sept. to 1943 Feb. Bronchitis etc., at intervals.
1943 March Pneumonia.
Later up to Sept. 1946 Myalgia, Bronchitis, Chill, Lumbago.
- 2.12.46 Certificate by Employer.
Mr. Friston has been in our employ from February 29th, 1936 to September 30th, 1939, and May, 1943 to present (1946) as a Bricklayer.
Absences from work: Continuous since his return. Sickness and attendance for treatment.
Other particulars: H. Friston has been absent owing to sickness caused by war service - daily attendances at the Ingham Infirmary.

SUMMARY OF ASSESSMENTS

Disability	Date made	Assessment	Period	
			From	To
Effects of Exposure -Myalgia	2. 1.43	30%	30.12.42	29. 6.43

(continued overleaf)

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SUMMARY OF ASSESSMENTS (CONTINUED)

Disability	Date made	Assessment	Period	
			FROM	TO
Effects of Exposure - Myalgia	1. 7.43	20%	30. 6.43	12.11.46
Effects of Exposure - Myalgia	29.10.46	6-14% Temporary Less than a Year	13.11.46	15. 7.47 In Final Settlement

Disabilities not accepted by the Ministry as qualifying injuries arising out of the 1939 War (and excluded from the assessment):
Nil.

CLOSING STATEMENT

The Tribunal are asked to decide in respect of disablement arising from EFFECTS OF EXPOSURE - MYALGIA

- (a) whether the circumstances of the case permit a final settlement of the question of the degree of the appellant's disablement directly attributable to Detention;
- (b) If so, whether the final assessment of the degree or nature of such disablement was right or what final assessment they think proper.

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FRISTON, Harry

SUPPLEMENTARY STATEMENT

FURTHER EVIDENCE IN SUPPORT OF APPEAL SUBMITTED
ON BEHALF OF APPELLANT BY THE BRISTOL LEGION

3. 3.47 Certificate by Medical Practitioner.

This is to certify that Harry Friston, aged 42 Years residing in 122, Stevenson street, is suffering from Bronchitis - and complains of pain in the lumbar region. He is working as a property repairer.