

[1] The Appellant appeals a decision of the Review Tribunal dated January 6, 2000. The Respondent advised the Pension Appeals Board (P.A.B.) by a letter from a lawyer dated March 1, 2002 that she would not be appearing either personally or by agent at the hearing scheduled for March 11, 2002.

[2] The Appellant states that the Review Tribunal erred when it concluded that Elizabeth Stevenson had not cohabited with Domenico Mele for a continuous period of one year prior to his death on October 6, 1997. The Review Tribunal concluded that the Respondent was the spouse of Mr. Mele at the time of his death.

[3] The Appellant testified under oath that Mr. Mele moved in with her on September 30, 1996, and they cohabited as husband and wife continuously until his death October 6, 1997. She remembers September 30, 1996 because Mr. Mele told her he loved her and gave her a heart-shaped diamond ring. A son was born January 29, 1998.

[4] William Norlack also testified that he helped Mr. Mele move into the two-bedroom apartment, he shared with the Appellant, on September 30,

1996. This witness, a co-worker of the Appellant, had a financial arrangement with the Appellant to share the expenses of the apartment until he was able to buy a house. He remembered the date of September 30 because it was the date he got married.

[5] The evidence of the Appellant and the witness, Mr. Norlack, was confirmed by the evidence of a friend and co-worker, Marja-Leena Mifflin.

[6] The evidence of the Appellant and the two witnesses was compelling and credible. Further, their evidence is corroborated by letters from friend and neighbours, a number of documents found in Exhibit No. 1 also confirm the testimony of the Appellant.

[7] A lawyer by the name of Daphne Johnston has made an affidavit (Exhibit No. 2) confirming that she was consulted by Mr. Mele in September 1997 regarding matrimonial affairs with the Respondent.

[8] The Respondent drafted a Separation Agreement (Exhibit No. 3) where she indicates Mr. Mele abandoned the relationship October 21, 1996, and moved out the matrimonial home.

[9] The father of Mr. Mele, Joe Mele, by way of correspondence found at page 117 of Exhibit No. 1 describes his son's rather unconventional relationship with the Respondent.

[10] Briefly, this Board had the benefit of much better and more cogent evidence than did the Review Tribunal. We have a clearer picture of the relationship of Mr. Mele with the Appellant and the Respondent.

The evidence confirming the Appellant's cohabitation with Mr. Mele from September 30, 1996 to October 6, 1997 is overwhelming.

[11] We therefore allow Elizabeth Stevenson's appeal.

DATED this 12th day of
March, 2002.

	(signed) A.J. Roy
	J.
I concur	(signed) H.P. Legg
I concur	(signed) S.J. Walker