



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *A. L. v. Minister of Employment and Social Development*, 2016 SSTGDIS 25

Tribunal File Number: GP-14-2034

BETWEEN:

**A. L.**

Appellant

and

**Minister of Employment and Social Development  
(formerly Minister of Human Resources and Skills Development)**

Respondent

and

**D. L.**

Added Party

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security Section**

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DECISION BY: Jude Samson

DATE OF DECISION: March 15, 2016

## REASONS AND DECISION

### OVERVIEW

[1] The Appellant and the Third Party married on August 20, 1977, and separated on June 1, 1997. In situations such as these, the *Canada Pension Plan* (CPP) allows pension credits earned by former spouses during their period of cohabitation to be added together and divided equally between them. This is formally known as a “Division of Unadjusted Pensionable Earnings” (DUPE) and more colloquially known as a “credit split” (the two terms are used interchangeably below).

[2] A credit split can increase or decrease the amount of a retirement pension to which a contributor is entitled. In the present case, the credit split requested by the Appellant had the effect of decreasing his retirement pension, and so he asked that his application be withdrawn. The Respondent acknowledged that the Appellant was entitled to withdraw his application for a credit split, but refused to accept it saying that the time for doing so had expired.

[3] For the reasons that follow, the appeal is allowed.

### METHOD OF PROCEEDING

[4] The hearing of this appeal was by written questions and answers for the following reasons:

- a) the issues under appeal are not complex;
- b) there are gaps in the information in the file and/or a need for clarification;
- c) credibility is not a prevailing issue; and
- d) this method of proceeding respects the requirement under the *Social Security Tribunal Regulations* to proceed as informally and quickly as circumstances, fairness and natural justice permit.

## THE LAW

[5] Retirement pensions are established by s. 44(1)(a) of the CPP. The amount of a retirement pension is set out in s. 46 of the CPP, and can be affected by a DUPE.

[6] For married couples who separate on or after January 1, 1987, DUPEs are authorized by s. 55.1(1)(b) of the CPP (provided that all the preconditions are met). Upon receipt of a credit split application under this section, the Minister must, without delay, notify the affected parties in writing of the periods of unadjusted pensionable earnings to be divided: CPP, s. 55.2(4) and *Canada Pension Plan Regulations* (CPP Regulations), s. 46(1).

[7] Where there is a division under s. 55.1 of the CPP, the affected parties must be notified in the prescribed manner: CPP, s. 55.2(10). The “prescribed manner” is further defined in s. 46(2) of the CPP Regulations as follows:

**46 (2)** A notification required by subsection 55(8) or 55.2(10) of the Act shall be effected by giving notice in writing containing such of the following information as is applicable:

- (a) the dates of marriage and dissolution of marriage of the persons subject to the division;
- (b) the period of cohabitation for which the division of unadjusted pensionable earnings has been made;
- (c) the amount of unadjusted pensionable earnings, prior to the division, of the persons subject to the division;
- (d) the amount of unadjusted pensionable earnings of the persons subject to the division as a result of the division;
- (e) the effect of the division on any benefit that is payable to or in respect of the persons subject to the division;
- (f) a statement of the right to make a request for a reconsideration referred to in subsection 81(1) of the Act; and
- (g) any other information that the Minister deems necessary.

[8] Pursuant to s. 26(c) of the *Social Security Tribunal Regulations*, any notice given by the Respondent to the Appellant under s. 46 of the CPP Regulations must be provided to the Tribunal within 20 days of when the Respondent receives a copy of the appeal.

[9] The ability to withdraw a DUPE application made under s. 55.1(b) of the CPP is established by s. 45(3) of the CPP Regulations, which states that the withdrawal must be made “by sending a notice to the Minister not later than 60 days after the date of receipt by the application of notification of the decision respecting the application.”

## **ISSUE**

[10] Can the Appellant withdraw the credit split application that the Respondent received from him on May 16, 2013 (GD2-23)?

[11] To answer this question, the Tribunal must also consider when it is most likely that the Respondent gave notice to the Appellant as required by ss. 55.2(4) and (10) of the CPP?

## **EVIDENCE AND SUBMISSIONS**

[12] The Appellant’s Application for a Canada Pension Plan Retirement Pension was received by the Respondent on April 9, 2013 (GD2-43). The Appellant indicated that he wanted his pension to start as soon as he qualified (GD2-44). Since the Appellant’s sixtieth birthday was not until December 2013, he was not qualified to receive his retirement pension until January 2014.

[13] The retirement pension application also asked questions pertaining to the Appellant’s children and the possibility of credit sharing, since these items could affect the amount of his pension.

[14] On June 11, 2013, the Respondent wrote to the Appellant regarding his application to take advantage of the CPP’s child-rearing provision, which had the potential of increasing his monthly retirement pension. Upon receipt of all the necessary information, the Respondent confirmed by letter to the Appellant dated September 17, 2013, that the monthly amount of his pension would increase from \$421.04 to \$438.61.

[15] The Appellant’s application for a credit split was received on May 16, 2013 (GD2-29). In it, the Appellant described how he and the Added Party were married on August 20, 1977, and separated on June 1, 1997 (GD2-31). On September 10, 2013, the Respondent requested

more information from the Appellant regarding this application (GD2-27). Accordingly, the Appellant provided a copy of his marriage certificate (GD2-13), a solemn declaration (GD2-14), and separation agreement (GD2-15).

[16] On January 28, 2014, the Appellant contacted the Respondent by phone to inquire about the amount of his retirement pension (GD2-12). By letter dated February 17, 2014, the Respondent provided a detailed explanation of how the Appellant's retirement benefit was calculated (GD2-8). It also explained the very particular reasons why the Appellant's monthly retirement pension was \$438.61 before the credit split and why it was reduced to \$421.61 after the credit split (GD2-10). The letter was largely provided by way of explanation rather than a decision and did not advise the Appellant of any rights of review that he might have.

[17] Nevertheless, by letter dated February 22, 2014 (and received by the Respondent on February 27, 2014), the Appellant wrote to the Respondent and advised that he wanted to "appeal my Credit Split because you never inform me that my pension would decrease" (GD2-7) (underlining in original).

[18] By letter dated March 5, 2014, the Respondent acknowledged receiving a request to reconsider its decision pertaining to the credit split (GD2-6). The Respondent's April 23, 2014 reconsideration decision is worth quoting at length (GD2-4):

We had received your application for a CPP Credit Split on May 16, 2013 and the application was processed on November 19, 2013.

On November 20, 2013, our department mailed a Notice of Entitlement of Credit Split to you, and this letter would have shown your pensionable earnings both before and after the Credit Split.

A Canada Pension Plan Credit Split application may be withdrawn under the following conditions:

- The applicant makes the request in writing to withdraw his/her application; and
- The request is received within 60 days from the date the client was notified of the Decision of approval of the application for a Credit Split.

As your Notice of Entitlement to a CPP Credit Split was sent to you in November 2013, you would have needed to submit your request to withdraw your application by January 2014.

[19] In the event the Appellant disagreed, he was advised that he could appeal to the Tribunal, which he did in a letter to the Tribunal dated May 6, 2014 (GD1-1).

[20] The Tribunal pauses for a moment to acknowledge that there is some lack of precision concerning the words used by the Appellant. Specifically, on learning that his monthly retirement pension had decreased, the Appellant requested an “appeal” (GD2-7), which is the word the Appellant says was given to him by one of the Respondent’s agents (GD1-1). But it would have been more accurate for the Appellant to say that he wanted to withdraw his application for a credit split (pursuant to s. 45(3) of the CPP Regulations). In the end, the Tribunal finds that nothing turns on this point since the Respondent clearly understood the Appellant’s goal of reversing the credit split, which is reflected in the reconsideration decision quoted above and that refers to the circumstances in which a credit split application can be withdrawn (GD2-4).

[21] The Appellant’s May 6, 2014 letter and Notice of Appeal were received by the Tribunal on May 13, 2014 (GD1). As part of its usual process upon receiving an appeal, the Tribunal provided to the Respondent a checklist of those documents listed in s. 26 of the *Social Security Tribunal Regulations* and asked that copies of any relevant documents be provided to the Tribunal. On the checklist that was returned to the Tribunal by the Respondent, the Respondent marked “N/A” beside the specific request for any “Notification sent under Section 46 or 46.1 of the CPP Regulations” (GD2-1).

[22] However, on October 21, 2015, having noted the reference in the reconsideration decision to a November 20, 2013 “Notice of Entitlement of Credit Split”, the Tribunal specifically requested a copy of this notice (GD3). Without any further explanation, the Respondent instead provided an October 29, 2015 document labelled “A Canada Pension Plan (CPP) Credit Split has been Approved” (GD4). The document provides key information pertaining to the credit split, along with the Appellant’s unadjusted pensionable earnings both before and after the division. It also indicates that a reconsideration of the decision can be requested within 90 days, but does not indicate how the credit split will affect the Appellant’s monthly retirement pension.

[23] From the Notice of Appeal (GD1-1) and the Appellant's response to the Tribunal's questions (GD5-1), it is apparent that the Appellant did not know what effect the credit split would have on his monthly retirement pension at the time he applied for it. However, the Appellant foresaw this issue and asked the Respondent what to do in the event his pension should decrease. Apparently, one of the Respondent's agents told the Appellant that he should "appeal" in the event of an unfavourable result (GD1-1). According to the Appellant, however, he received no notice from the Respondent that his monthly retirement pension would decrease until he received his first payment in January 2014. When he realized that this payment was less than expected, he moved as quickly as possible to correct the situation.

[24] In response to the Tribunal's questions (GD0), the Added Party advised that, when the Appellant approached her about the credit splitting scenario, she phoned the Respondent and was advised that agreeing to the credit split would reduce her monthly retirement benefit by about \$20 per month (when she applied to receive her pension) (GD6). She said that she agreed to do it and that everyone assumed it would be to her ex-husband's benefit. That being the case, the Added Party commented that it ought to be obvious to the Respondent that neither she nor the Appellant would have intended to pursue an option that now appears to be in neither of their interests.

[25] The Tribunal's questions to the Respondent focused around what notice was given to the Appellant pursuant to s. 46 of the CPP Regulations and when it was given (GD0). The Respondent replied as follows (GD7-1):

1. After the process of the Credit split on November 19, 2013, the systems generated a Notice which was mailed out on November 20, 2013 (**Reference: December 2013 National CPP Production Schedule Amendment #9**). This is a system generated notice therefore no record of this notice is added to the clients account. In October 21, 2015 Tribunal requested a copy of November 20, 2013 Notice (GD3), since this is a systems generated letter and it's not on the file, the agent had to produce a copy which was date October 29, 2015.
2. Two Notices of Entitlement were sent to the client after the process of credit split. First one on November 20, 2013 and the second on January 8, 2014.
3. The credit split was process on November 19, 2013 and a Notice of Entitlement was sent the following day on November 20, 2013. His Retirement benefit effective date was January 2014, therefore another monthly Notice of Entitlement was sent prior to

the start date of his benefit. This Notice of Entitlement was sent on Wednesday January 8, 2014 (**Reference: January 2014 National CPP Production Schedule Amendment #1**).

[Emphasis in original.]

[26] Other than what has already been described, the Tribunal did not receive legal submissions from any of the parties.

## **ANALYSIS**

[27] The Appellant's application for a credit split was received by the Respondent on May 16, 2013 (GD2-29). In its reconsideration decision of April 23, 2014, the Respondent acknowledged that the credit split application could have been withdrawn if the Appellant had requested as much in writing within 60 days from when he had been notified of the decision that his application had been approved.

[28] The question that arises, therefore, is when was the Appellant notified that his application for a credit split had been approved?

[29] According to the Appellant, he was never advised that his credit split application had been approved, or at the very least, was never advised of how it would affect his monthly retirement pension.

[30] The Respondent initially indicated that no notification under s. 46 of the CPP Regulations had been given (GD2-1). In response to a specific request from the Tribunal, the Respondent later provided the Tribunal with one notice apparently given under s. 46 of the CPP Regulations (GD4). Most recently, the Respondent informed the Tribunal that two "systems-generated" notices were sent to the Appellant: the first on November 20, 2013, and the second on January 8, 2014 (GD7-1). The Respondent notes that no record of a system-generated notice is added to the client's account, or in this case, the Appellant's file.

[31] The Tribunal understands that the notice provided to it and marked GD4 is the November 20, 2013 notice, but that since no copy of it was put on the Appellant's file, it had to



be reproduced, and the date on document GD4 is the date that it was printed in response to the Tribunal's request.

[32] Despite the Tribunal's request in the Notice of Hearing (GD0) and the obligations imposed on the Respondent by s. 26 of the *Social Security Tribunal Regulations*, the Respondent has still not provided the Tribunal with any copy of the notice that it purportedly sent to the Appellant on January 8, 2014. No findings can be made on the basis of that document, since it has never been shared with the Tribunal.

[33] In support of the statements at page GD7-1 that notices were sent to the Appellant on November 20, 2013, and January 8, 2014, the Respondent refers to "December 2013 National CPP Production Schedule Amendment #9" and "January 2014 National CPP Production Schedule Amendment #1". The Tribunal has no knowledge of these documents and no copies were provided to the Tribunal. Accordingly, such references are of no value to the Tribunal.

[34] The Appellant was clearly eager to know what impact the credit split application was going to have on his monthly retirement pension and he states that he moved quickly to appeal the decision as soon as he became aware of it, which was at the time he received his first payment in January 2014. From this, the Tribunal accepts that the Appellant would have moved even sooner if he had known the consequences of the credit split from an earlier date.

[35] Overall, the Tribunal finds that the Appellant's written statements are supported by the documents on record. The Appellant was advised on September 17, 2013, that his monthly retirement benefit would be in the amount of \$438.61 and that his first payment would be made in January 2014 (GD2-34). Following receipt of the first payment at a lesser amount, the Appellant contacted the Respondent on January 28, 2014, to request an explanation (GD2-12). The Respondent's answer came in a letter dated February 17, 2014 (GD2-8), which the Appellant challenged on February 22, 2014 (GD2-7).

[36] By contrast, the Respondent's evidence is deficient in many respects:

- a) Despite its obligation to do so, the Respondent initially indicated to the Tribunal that it had not provided the Appellant with notice pursuant to s. 46 of the CPP Regulations (GD2-1). To this day, and in spite of a specific request from the Tribunal, the

Respondent has only provided the Tribunal with one of the two notices that it claims to have given the Appellant under s. 46 of the CPP Regulations (GD4);

- b) The notices that were purportedly sent to the Appellant pursuant to s. 46 of the CPP Regulations were system-generated, and no record of these documents was put on the Appellant's file;
- c) It is unknown whether the person who prepared the Respondent's answers at GD7 has any knowledge of whether the November 20, 2013 and January 8, 2014 notices were ever sent to the Appellant. Rather, the Respondent refers to National CPP Production Schedules that are unknown to the Tribunal;
- d) The Respondent has advanced no evidence to suggest that the November 20, 2013 and January 8, 2014 notices were received by the Appellant. Rather, the Tribunal concludes, based on the entirety of the evidence, that it is more likely that the Appellant never received the November 20, 2013 and January 8, 2014 notices; and
- e) The only notice that is relied on by the Respondent and that appears in the Tribunal's record (GD4) does not comply with the requirements of s. 46(2)(e) of the CPP Regulations in that it does not indicate the effect of the division on the Appellant's monthly retirement pension.

[37] For the purposes of the present appeal, the Tribunal need not consider whether each of the elements listed in s. 46(2) of the CPP Regulations must appear in a single notice or whether they can be divided among multiple notices. In the present case, and based on the evidence the Tribunal has before it, the earliest date by which the Appellant could have been notified of all the elements listed in s. 46(2) of the CPP Regulations would be the date when he received the Respondent's letter of February 17, 2014 (GD2-8). And since the Appellant's objection to the credit split was received by the Respondent just 10 days later (GD2-7), it was within the 60-day window permitted by s. 45(3) of the CPP Regulations and ought to be handled accordingly.

[38] Though not binding, the Tribunal's conclusion is reinforced by the decision in *Greco v. MHRD* (October 23, 2002), CP 18977 (PAB). In that case, which has many similarities to the present one, the Pension Appeals Board stressed the important part that the notice provisions

play when the Minister effects a DUPE. As a result, the Board concluded that a DUPE application was invalidly given effect because the Minister failed to give notice as required by section 55.2(4) of the CPP. The same result follows in the present appeal, since the Tribunal is unable to accept the Respondent's assertion that proper notice of the credit split was given to the Appellant in November 2013.

[39] And while the context is quite different, the Tribunal also draws support from the Federal Court's decision in *Canada (A.G.) v. Vinet-Proulx*, 2007 FC 99. In that case, a claimant had good evidence that an application for a pension had been sent to the Minister, but the Minister denied receiving it. In the result, the Federal Court held that the claimant was not entitled to increased retroactivity on the basis of an application that had mysteriously disappeared. Rather, the Federal Court found that the applicant had an obligation to deliver her application to the offices of the Respondent and that by sending it in the mail, she took a small but appreciable risk of it getting lost.

[40] In the present case, the Respondent was obliged to give notice of the credit split to the affected parties. These notice requirements, as stated in *Greco*, are fundamental to the operation of the DUPE provisions. Their importance is also reflected in the requirement that such notices be provided to the Tribunal in the event of an appeal. Yet the Respondent kept no record of these notices, did not take any extra precautions to ensure their safe delivery (such as obtaining proof of delivery), and did not provide copies to the Tribunal until specifically requested to do so (and even then, the Tribunal has only been provided with one of the two notices that were purportedly given).

[41] Given that claimants such as Ms. Vinet-Proulx must suffer the consequences if their documents do not reach their intended destination, the Respondent must also bear the burden in cases where the Minister has an obligation to give notice but cannot show that it has done so.

[42] With regard to the evidence before it, the Tribunal concludes that February 17, 2014, is the earliest possible date when the Respondent could have met its notice obligations under s. 46(2) of the CPP Regulations. Accordingly, the Appellant had 60 days from February 17, 2014, to request the withdrawal of his credit split application, which he validly did in a letter that was received by the Respondent on February 27, 2014 (GD2-7).

[43] Prior to concluding, the Tribunal notes that if the information provided by the Added Party is correct, then the effect of the credit split is to decrease the retirement pension of both her and the Appellant. In these circumstances, the Minister may have a residual discretion to cancel the division pursuant to s. 55.1(5) of the CPP.

[44] Finally, both the Appellant and the Added Party complained about the length of time and effort required to resolve this matter. Alas, the Tribunal has also been frustrated by the way that this appeal has proceeded. The Tribunal operates at arm's length from the Respondent and is dependent on the Department's assistance to provide it with the information it needs to render a proper decision. Yet in the experience of this Member, the Respondent has been unusually unhelpful in this appeal.

## **CONCLUSION**

[45] As described above, the Tribunal finds that the notice requirements established by ss. 55.2(4) and 55.2(10) of the CPP and further described in ss. 46(1) and (2) of the CPP Regulations are essential to the operation of the DUPE provisions. According to s. 45(3) of the CPP Regulations, once applicants for a DUPE are notified of the decision respecting their application, they then have 60 days to give notice in writing should they wish to withdraw the application.

[46] In the present appeal, there is a question as to when the 60-day period started to run.

[47] The Respondent claimed that notice of a decision was given to the Appellant by letter dated November 20, 2013, meaning that the Appellant had until January 2014 to provide a written request to withdraw his application for a credit split (GD2-4).

[48] However, the Tribunal has found that the November 20, 2013 notice was not received by the Appellant and/or was deficient in that it failed to meet the requirements of s. 46(2)(e) of the CPP Regulations. In particular, the November 20, 2013 notice did not describe the effect the division would have on the Appellant's monthly retirement pension (see copy of notice at GD4, though incorrectly dated October 29, 2015).

[49] Rather, based on the evidence in the Tribunal record, February 17, 2014, is the earliest possible date by which the Appellant was informed of the effect the credit split would have on his monthly retirement pension. Upon receiving that information, the Appellant wrote to the Respondent on February 22, 2014, and formally requested an appeal (meaning that his application be withdrawn) and that written request was received by the Respondent on February 27, 2014 (GD2-7).

[50] In the circumstances, the Appellant's request to withdraw his DUPE application was received within the time permitted by s. 45(3) of the CPP Regulations.

[51] The appeal is allowed.

Jude Samson  
Member, General Division - Income Security

## Schedule A – Relevant Statutory Provisions

### *Canada Pension Plan, RSC 1985, c. C-8*

**55.1 (1)** Subject to this section and sections 55.2 and 55.3, a division of unadjusted pensionable earnings shall take place in the following circumstances:

- (a) [...];
- (b) in the case of spouses, following the approval by the Minister of an application made by or on behalf of either spouse, by the estate or succession of either spouse or by any person that may be prescribed, if
  - (i) the spouses have been living separate and apart for a period of one year or more,

**(5)** Before a division of unadjusted pensionable earnings is made under this section, or within the prescribed period after such a division is made, the Minister may refuse to make the division or may cancel the division, as the case may be, if the Minister is satisfied that

- (a) benefits are payable to or in respect of both persons subject to the division; and
- (b) the amount of both benefits decreased at the time the division was made or would decrease at the time the division was proposed to be made.

**55.2 (4)** The Minister shall, without delay after being informed of a judgment granting a divorce or a judgment of nullity of a marriage or after receiving an application under section 55 or paragraph 55.1(1)(b) or (c), notify each

**55.1 (1)** Sous réserve des autres dispositions du présent article et des articles 55.2 et 55.3, il doit y avoir partage des gains non ajustés ouvrant droit à pension dans les circonstances suivantes :

- a) [...];
- b) dans le cas d'époux, à la suite de l'approbation par le ministre d'une demande faite par l'un ou l'autre de ceux-ci ou pour son compte, ou par sa succession ou encore par une personne visée par règlement, si les conditions suivantes sont réunies :
  - (i) les époux ont vécu séparément durant une période d'au moins un an,

**(5)** Avant qu'ait lieu, en application du présent article, un partage des gains non ajustés ouvrant droit à pension, ou encore au cours de la période prescrite après qu'a eu lieu un tel partage, le ministre peut refuser d'effectuer ce partage, comme il peut l'annuler, selon le cas, s'il est convaincu que :

- a) des prestations sont payables aux deux personnes visées par le partage ou à leur égard;
- b) le montant des deux prestations a diminué lors du partage ou diminuerait au moment où il a été proposé que le partage ait lieu.

**55.2 (4)** Sans délai après avoir été informé d'un jugement accordant un divorce ou d'un jugement en nullité de mariage, ou après avoir reçu une demande en conformité avec l'article 55 ou les alinéas 55.1(1)b) ou c), le

of the persons subject to the division, in the prescribed manner, of the periods of unadjusted pensionable earnings to be divided, and of any other information that the Minister considers necessary.

**(5)** Where there is a division under section 55.1, the unadjusted pensionable earnings for each person subject to the division for the period of cohabitation attributable to contributions made under this Act, determined in the same manner as the total pensionable earnings attributable to contributions made under this Act are determined in section 78, shall be added and then divided equally, and the unadjusted pensionable earnings so divided shall be attributed to each person.

[...]

**(9)** Where there is a division under section 55.1 and a benefit is or becomes payable under this Act to or in respect of either of the persons subject to the division for a month not later than the month following the month in which the division takes place, the basic amount of the benefit shall be calculated and adjusted in accordance with section 46 and adjusted in accordance with subsection 45(2) but subject to the division, and the adjusted benefit shall be paid effective the month following the month in which the division takes place but in no case shall a benefit that was not payable in the absence of the division be paid in respect of the month in which the division takes place or any prior month.

ministre donne à chacune des personnes visées par le partage, en la manière prescrite, un avis de la période pour laquelle il y aura partage des gains non ajustés ouvrant droit à pension, de même que de tout autre renseignement jugé nécessaire par le ministre.

**(5)** Dans les cas où il y a partage en application de l'article 55.1, il y a addition des gains non ajustés ouvrant droit à pension de chacune des personnes visées par le partage pour la période de cohabitation se rapportant à des cotisations versées selon la présente loi, déterminés de la même manière que le total des gains ouvrant droit à pension afférents à des cotisations versées selon la présente loi est déterminé conformément à l'article 78, et ensuite, tant partage en parts égales des gains ouvrant droit à pension ainsi additionnés qu'attribution de ces parts à chacune de ces personnes.

[...]

**(9)** Dans les cas où il y a partage en application de l'article 55.1 et qu'une prestation est ou devient payable, conformément à la présente loi, à ou à l'égard de l'une ou l'autre des personnes visées par le partage au plus tard le mois qui suit le mois du partage, le montant de base de la prestation est calculé et ajusté conformément à l'article 46, de même qu'ajusté conformément au paragraphe 45(2), mais compte tenu de ce partage, et la prestation ajustée est payée avec effet lors du mois suivant le mois au cours duquel il y a partage; toutefois, il ne peut être payé une prestation qui n'aurait pas été payable, n'eût été le partage, pour le mois au cours duquel il y a partage ou tout mois antérieur à celui-ci.

**(10)** Where there is a division under section 55.1, both persons subject to the division, or their respective estates, shall be notified in the prescribed manner.

**(10)** Dès qu'il y a un partage en application de l'article 55.1, les personnes visées par le partage, ou leurs ayants droit, en sont avisées de la manière prescrite.

**(11)** The Governor in Council may make regulations prescribing

**(11)** Le gouverneur en conseil peut, par règlement :

**(a)** the time, manner and form of making applications for a division of unadjusted pensionable earnings or withdrawal of applications for such division;

**a)** fixer les délais et les modalités de présentation ou de retrait des demandes de partage des gains non ajustés ouvrant droit à pension;

**(b)** the procedures to be followed in dealing with and approving such applications and the information and evidence to be furnished in connection therewith; and

**b)** prévoir la procédure à suivre pour examiner ces demandes et les approuver, de même que les renseignements et la preuve à fournir à ce sujet;

**(c)** the effective dates of the approval or taking place of a division and of the attribution of pensionable earnings following a division.

**c)** fixer la date à laquelle prend effet le partage ou son approbation et celle à laquelle prend effet l'attribution de gains ouvrant droit à pension à la suite d'un partage.

***Canada Pension Plan Regulations, CRC, c. 385***

**45 (3)** An applicant for a division of unadjusted pensionable earnings under section 55 or paragraph 55.1(1)(b) or (c) of the Act may withdraw the application by sending a notice in writing to the Minister not later than 60 days after the date of receipt by the applicant of notification of the decision respecting the application.

**45 (3)** Le requérant peut retirer la demande de partage, en application de l'article 55 ou des alinéas 55.1(1)b) ou c) de la Loi, des gains non ajustés ouvrant droit à pension en faisant parvenir un avis écrit au ministre dans les 60 jours suivant la réception de l'avis de la décision relative à la demande.

**46 (1)** A notification required by subsection 55.2(4) of the Act shall be effected by giving notice in writing.

**46 (1)** L'avis prévu au paragraphe 55.2(4) de la Loi est donné par écrit.



**(2)** A notification required by subsection 55(8) or 55.2(10) of the Act shall be effected by giving notice in writing containing such of the following information as is applicable:

- (a)** the dates of marriage and dissolution of marriage of the persons subject to the division;
- (b)** the period of cohabitation for which the division of unadjusted pensionable earnings has been made;
- (c)** the amount of unadjusted pensionable earnings, prior to the division, of the persons subject to the division;
- (d)** the amount of unadjusted pensionable earnings of the persons subject to the division as a result of the division;
- (e)** the effect of the division on any benefit that is payable to or in respect of the persons subject to the division;
- (f)** a statement of the right to make a request for a reconsideration referred to in subsection 81(1) of the Act; and
- (g)** any other information that the Minister deems necessary.

**(2)** L'avis prévu aux paragraphes 55(8) ou 55.2(10) de la Loi doit être donné par écrit et contenir les renseignements applicables qui suivent :

- a)** la date du mariage et celle de la dissolution du mariage des personnes visées par le partage;
- b)** la période de cohabitation pour laquelle a été effectué le partage des gains non ajustés ouvrant droit à pension;
- c)** le montant, avant le partage, des gains non ajustés ouvrant droit à pension des personnes visées par le partage;
- d)** le montant, après le partage, des gains non ajustés ouvrant droit à pension des personnes visées par le partage;
- e)** les conséquences du partage sur les prestations qui sont payables aux personnes visées par le partage ou à leur égard;
- f)** le droit de demander une révision, prévu au paragraphe 81(1) de la Loi;
- g)** tout autre renseignement que le ministre juge nécessaire.

***Social Security Tribunal Regulations, SOR/2013-60***

**26** The Minister must, within 20 days after the day on which the Minister receives a copy of an appeal, file the following with the Income Security Section:

- (a)** a copy of the application that gave rise to the decision being appealed;
- (b)** if applicable, the information relating to the marriage that is referred to in subsection 54(2) of the *Canada Pension Plan Regulations*;

**26** Dans les vingt jours suivant la date à laquelle il reçoit la copie d'un appel, le ministre dépose auprès de la section de la sécurité du revenu :

- a)** une copie de la demande ayant donné lieu à la décision qui fait l'objet de l'appel;
- b)** s'il y a lieu, les renseignements concernant le mariage mentionnés au paragraphe 54(2) du *Règlement sur le*

(c) a copy of any notification given in accordance with section 46 or 46.1 of the *Canada Pension Plan Regulations*;

[...]

*Régime de pensions du Canada;*

c) une copie de tout avis donné conformément aux articles 46 ou 46.1 du *Règlement sur le Régime de pensions du Canada;*

[...]