



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *L. J. v. Minister of Employment and Social Development*, 2016 SSTADIS 125

Tribunal File Number: AD-16-147

BETWEEN:

**L. J.**

Appellant

and

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

Respondent

and

**D. S.**

Added Party

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Leave to Appeal Decision**

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SOCIAL SECURITY TRIBUNAL MEMBER: Janet LEW

DATE OF DECISION: April 4, 2016

## REASONS AND DECISION

### OVERVIEW

[1] This appeal involves an application for a *Canada Pension Plan* survivor's pension. I granted leave to appeal on February 4, 2016, on the basis that the General Division may have failed to observe a principle of natural justice when it rendered a decision on the record on October 14, 2015, before the deadline for submissions had even passed.

### SUBMISSIONS

[2] Counsel for the Respondent provided submissions on March 29, 2016. The Respondent concedes the appeal and agrees that the matter should be returned to the General Division for redetermination, given the possibility of a breach of natural justice or procedural fairness.

[3] The Appellant provided submissions on March 29, 2016. In light of the Respondent conceding that the matter be returned to the General Division, I need not address those submissions. However, I note that the Appellant has been unsuccessful in locating the Added Party and that the Added Party apparently has a pattern of providing addresses where she does not reside. She cannot be located.

[4] The Added Party was provided with a copy of the decision granting leave to appeal, but it was returned and marked "return to sender". Other documents which have been sent in the past to the Added Party have also been undeliverable. The Added Party has not provided any other contact information and, for the purposes of this appeal, I find that she has failed to comply with her obligations under section 6 of the *Social Security Tribunal Regulations* to file, without delay, a notice of any change in her contact information. I am therefore prepared to proceed in the absence of any submissions from the Added Party.

## **BREACH OF NATURAL JUSTICE**

[5] The Social Security Tribunal had written to the parties advising that they could provide submissions up to and including October 19, 2015. The Appellant filed a 98- page submission with the Social Security Tribunal on October 16, 2015. The General Division was not provided with and did not consider this submission. Clearly, the General Division should have waited until the deadline for submissions had passed before rendering its decision. Failure to do so deprived the Appellant of the opportunity to present her case. Under the circumstances, it cannot be determined that she received a fair hearing.

[6] The Appellant raised several other grounds of appeal. She alleges, for instance, that the General Division relied on falsified documents from the Added Party. The Appellant says that she has documentation which fully supports her claim and entitlement to a survivor's pension. As I indicated in the leave decision, it is not appropriate to evaluate the Appellant's information at the appeal and to make findings of fact, without a proper and full hearing of the evidence. As the trier of fact, the General Division is in the best position to evaluate the probative value of the information and determine what impact it may have on the outcome of these proceedings.

## **CONCLUSION**

[7] The appeal is allowed and the matter remitted to a different member of the General Division for a hearing *de novo*.

*Janet Lew*

Member, Appeal Division