



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *D. M. v. Minister of Employment and Social Development*, 2017 SSTGDIS 148

Tribunal File Number: GP-17-1647

BETWEEN:

D. M.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Connie Dyck

DATE OF DECISION: October 10, 2017

REASONS AND DECISION

OVERVIEW

[1] The Appellant applied for a Canada Pension Plan (CPP) retirement pension. The Respondent granted the application and the Appellant began receiving the monthly retirement benefits in December 2016. The Appellant disagreed with the commencement date. The Respondent maintained their decision initially and upon reconsideration. The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal) on June 22, 2017.

[2] This appeal involves the correct commencement date of a CPP retirement pension.

[3] Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act) states that the General Division must summarily dismiss an appeal if satisfied that it has no reasonable chance of success (*Miter v. Canada (A.G.)*, 2017 FC 262).

[4] The Tribunal has decided that this appeal has no reasonable chance of success for the reasons set out below.

EVIDENCE

[5] The Appellant's 60th birthday was in January 2016.

[6] The Appellant's application for a CPP retirement pension was received in November 2016.

SUBMISSIONS

[7] The Appellant was given notice in writing of the intent to summarily dismiss the appeal and was allowed a reasonable period of time to make submissions as required by Section 22 of the *Social Security Tribunal Regulations* (Regulations). The Appellant has not made submissions in response to the notice of intent.

[8] In his Notice of Appeal to the Tribunal, the Appellant submitted that:

- a) in his initial CPP application on November 2016, he answered Section 10, stating he wished his benefit to start as of January 2016; and

- b) he was advised by a representative of Service Canada to change the commencement date to “as soon as I qualify” and that he would receive retroactive pay.

[9] The Respondent submitted that the Appellant’s application was received on November 25, 2016 and therefore the earliest date his pension could start would be December 2016, the month after his application was received.

ANALYSIS

[10] The Tribunal is created by legislation and, as such, it has only the powers granted to it by its governing statute. The Tribunal is required to interpret and apply the provisions as they are set out in the CPP.

[11] Section 67(3.1) of the CPP states that:

For a retirement pension that commences to be payable on or after January 1, 2012 and if the applicant is not an estate, subject to section 62, if payment of the retirement pension is approved, the pension is payable for each month commencing with the latest of

(a) the month in which the applicant reached sixty years of age,

(b) the month following the month in which the application was received if they were under sixty-five years of age when they applied,

(c) the eleventh month preceding the month in which the application was received if they have reached sixty-five years of age when they applied, but in no case earlier than the month in which they reached sixty-five years of age, and

(d) the month chosen by the applicant in their application.

[12] In this case, the applicable date for Section 67(3.1)(a) is January 2016; for Section 67(3.1)(b) the date is December 2016; (c) is not applicable as the Appellant is not yet 65 years of age; and the date for Section 67(3.1)(d) is at the earliest possible date. In accordance with Section 67(3.1), the latest of these dates is December 2016. Therefore, in accordance with the legislation, the CPP retirement pension must start on December 2016.

[13] The Appellant argued that in his initial CPP application on November 2016, he answered Section 10 by stating he wished his benefit to start as of January 2016. This application, however is not considered to be the application which was filed with Service Canada. In any event, even if the Appellant had chosen the date of January 2016 on his filed CPP application, the decision of the Tribunal would remain the same. As January 2016 is before December 2016, Section 67(3.1) would simply not allow the earlier date. It is the latest of the dates which is the commencement date of the CPP retirement pension and therefore December 2016 is the earliest possible date that the CPP retirement pension can commence.

[14] Accordingly, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[15] The appeal is summarily dismissed.

Connie Dyck
Member, General Division - Income Security