



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *K. A. v. Minister of Employment and Social Development and N. M.*, 2018 SST 1336

Tribunal File Number: GP-16-2444

BETWEEN:

**K. A.**

Applicant

and

**Minister of Employment and Social Development**

Respondent

and

**N. M.**

Added Party

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

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DECISION BY: Antoinette Cardillo

DATE OF DECISION: June 8, 2018

## **DECISION**

I find that the Canada Pension Plan earnings of both parties [the Applicant and the Added Party] are to be divided.

## **OVERVIEW**

[1] The Applicant requested a credit split. The Respondent denied the application initially and upon reconsideration.<sup>1</sup> The Applicant appealed the reconsideration decision to the Social Security Tribunal.

## **ISSUE**

[2] Is the Applicant entitled to a division of the Added Party's credits in accordance with the divorce judgement?

## **ANALYSIS**

### **Credit-splitting conditions**

[3] In accordance with the *Canada Pension Plan* (CPP),<sup>2</sup> credit splitting is not possible when:

- a) a written agreement is entered into between the people subject to the division and the agreement contains a provision that expressly mentions the CPP and indicates the intention of those persons that there be no credit split;
- b) such a provision is expressly permitted under the provincial law that governs such agreements; and

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<sup>1</sup> GD2-13

<sup>2</sup> Subsections 55.2(2) and (3)

- c) the agreement was entered into before the date of the application for the credit split or before the rendering of the judgement granting a divorce or the judgement of nullity of the marriage, as the case may be.

[4] After a divorce judgement has been issued and one party applies for a credit split, a split is mandatory. However, the CPP<sup>3</sup> provides that, when the parties subject to the division enter into an agreement that expresses their intention not to split their credits under the CPP and this provision in the agreement is expressly authorized in the province governing the agreement, the split will not take place.

[5] In addition, the CPP<sup>4</sup> provides that, in the split calculation, the earnings of each affected person are to be added together and then divided equally. The CPP therefore provides the split for each of the affected parties, not just one.

### **Credit splitting according to a divorce judgement**

[6] Paragraph 9 of the Applicant and Added Party's divorce judgement,<sup>5</sup> which was rendered in Quebec, states that the Applicant's CPP earnings will not be split, and paragraph 8 states that there will be no division of earnings under the *Act respecting the Québec Pension Plan*.

[7] Paragraph 10 states that the Added Party's CPP earnings will be split from the marriage date of August 26, 2005, until the separation date of December 25, 2012.

[8] Furthermore, the Added Party consented to the division of earnings under the CPP in an email.<sup>6</sup>

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<sup>3</sup> Subsections 55.2(2) and (3)

<sup>4</sup> Subsection 52.2(5) of the CPP

<sup>5</sup> GD2-6

<sup>6</sup> GD1-11

[9] I note the contradiction in paragraphs 9 and 10 of the divorce judgement. These paragraphs are incompatible with the legislative provisions in the CPP. The Applicant is requesting, first, that her earnings not be divided and, second, that those of the Added Party be divided.

[10] As mentioned, the credit split is mandatory under the CPP,<sup>7</sup> unless **both parties**<sup>8</sup> have expressed their intention to forgo the division in an agreement. In this case, the divorce judgement states only one party's intention to forgo the division, not both. It follows then that the agreement goes against the CPP.<sup>9</sup>

[11] I find that both parties' CPP earnings are to be split.

## CONCLUSION

[12] The appeal is allowed in part.

Antoinette Cardillo  
Member, General Division – Income Security

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<sup>7</sup> Section 55.1 of the CPP

<sup>8</sup> Exception in subsection 55.2(3) of the CPP

<sup>9</sup> Subsection 55.2(3) of the CPP