



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. B. v Minister of Employment and Social Development*, 2018 SST 1225

Tribunal File Number: GP-17-3050

BETWEEN:

M. B.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: George Tsakalis

DATE OF DECISION: October 26, 2018

DECISION

[1] This appeal is summarily dismissed because I am satisfied that it has no reasonable chance of success.

OVERVIEW

[2] The Claimant applied for a *Canada Pension Plan (CPP)* death benefit on December 5, 2016. The Minister denied the application initially and upon reconsideration. The Claimant appealed the reconsideration decision to the Social Security Tribunal (Tribunal).

[3] The Minister recommended that this appeal be summarily dismissed and I must summarily dismiss this appeal if I am satisfied that it has no reasonable chance of success.¹

SUBMISSIONS

[4] The Minister submitted that this appeal has no reasonable chance of success because the deceased contributor died on September 25, 2016 and no application for a death benefit was received within 60 days by anyone acting for his estate. The death benefit application was processed and paid to the institution that paid for the funeral expenses in accordance with the provisions under the CPP.²

[5] The Claimant submitted in her Notice of Appeal that she was the legal spouse of the deceased contributor. She was informed by Indigenous and Northern Affairs Canada (INAC) on October 19, 2016 that she became a widow. Their marriage was still acknowledged by INAC. She was denied an opportunity to apply for a benefit because she was not provided with a copy of the deceased contributor's death certificate.

[6] The Claimant was given notice in writing of the intent to summarily dismiss the appeal and was allowed a reasonable period of time to make submissions.³ The Claimant made no further submissions in response to this notice.

EVIDENCE

¹ Subsection 53(1) *Department of Employment and Social Development Act*; *Miter v. Canada (A.G.)*, 2017 FC 262

² GD3-4

³ Section 22 *Social Security Tribunal Regulations*

[7] The file contains a proof of death certificate confirming that the deceased contributor passed away on September 25, 2016. The Claimant was not listed as the next of kin on the death certificate, but rather another individual who is described as the deceased contributor's common law spouse.⁴

[8] The Minister received an application for the death benefit from X on November 9, 2016.⁵

[9] X paid the deceased contributor's funeral expenses.⁶

[10] The Minister did not receive the Claimant's application for the death benefit until December 5, 2016. She described herself in the application as being the ex-wife/widow of the deceased contributor. She did not indicate that she was acting as the executor of the deceased contributor's estate.⁷

ANALYSIS

This appeal has no reasonable chance of success

[11] Where payment of a death benefit is approved, the Minister is required to pay the death benefit to the estate of the deceased contributor, but there are exceptions to this general rule.⁸ One of the exceptions to this general rule is if the estate fails to apply for the death benefit within 60 days of the death of the deceased contributor, the Minister has discretion to pay the death benefit to the individual or institution who has paid for or is responsible for the payment of the deceased contributor's funeral expenses.⁹

[12] This appeal has no reasonable chance of succeeding because the Minister received no application for a death benefit by anyone acting for the estate within 60 days of the death of the deceased contributor. The Minister properly processed the application it received from X, which paid for the deceased contributor's funeral expenses. A death benefit can only be paid to one

⁴ GD2-35

⁵ GD2-38

⁶ GD2-48-53

⁷ GD2-31-32

⁸ Subsection 71(1) *Canada Pension Plan*

⁹ Subsection 71(2) *Canada Pension Plan* and Subsection 64(1) *Canada Pension Plan Regulation*;

applicant and it can only be paid on one occasion.¹⁰ In this case, the death benefit was properly paid to X. The Claimant is therefore not eligible to receive the death benefit.

CONCLUSION

[13] The appeal is summarily dismissed.

George Tsakalis
Member, General Division - Income Security

¹⁰ Subsection 71(3) *Canada Pension Plan*