



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *I. M. v Minister of Employment and Social Development*, 2018 SST 1343

Tribunal File Number: GP-18-2070

BETWEEN:

I. 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: December 24, 2018

REASONS AND DECISION

OVERVIEW

[1] The Appellant was in receipt of a *Canada Pension Plan* (CPP) disability benefit. This benefit ceased to be payable when the Appellant turned 65 years of age in September 2017. A CPP retirement pension began the following month in October 2017¹. The Appellant appealed to the Social Security Tribunal (Tribunal) on September 12, 2018² because the amount of her CPP retirement pension was substantially less than what she was previously receiving from her CPP disability benefit. She requested that she be allowed to continue with her CPP disability benefit instead of the CPP retirement pension. She also requested that Worker's Compensation (WCB) make CPP contributions for the years she was in receipt of a benefit from Worker's Compensation, which would result in a larger monthly CPP retirement benefit.

[2] The General Division must summarily dismiss an appeal if satisfied that it has no reasonable chance of success³. 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 submissions⁴. The Tribunal received the Appellant's submissions on December 17, 2018⁵. She submitted that she did not receive any information "of what the Worker's Compensation Board wrote to the Tribunal" in this matter and that she remains ill as noted in a letter from her doctor⁶.

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

¹ GD 2-12

² GD 1

³ Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act) and *Miter v. Canada (A.G.)*, 2017 FC 262

⁴ as required by Section 22 of the *Social Security Tribunal Regulations* (Regulations)

⁵ GD 5

⁶ GD 1-4

ANALYSIS

The amount of the Appellant's CPP retirement pension has been calculated correctly

[4] The Respondent provided a detailed explanation and accounting of the Appellant's retirement pension amount⁷. Although the Appellant feels this amount is inadequate, I do not have the authority or jurisdiction to alter the amount if it is calculated in accordance with the CPP. Based on the Appellant's contribution of earnings record⁸, the Appellant's CPP retirement pension has been calculated correctly⁹.

[5] The Appellant also questioned why credited hours from 1991 are not reflected on her Contribution of Earnings record. However, this is not an issue on which I have authority. Any objection by the Appellant to the amount of the CPP contributions to the Record of Earnings or the classification of earnings is a matter of an appeal to the proper forum and not one on which I have jurisdiction.

The Appellant's CPP retirement pension cannot be cancelled in favour of a CPP disability pension

[6] The Appellant requested that her disability pension continue to be paid, even though she was 65 years old, because she continues to be disabled. She submitted a letter from her doctor supporting that the Appellant continued to have chronic depression with psychosis and is unable to work¹⁰. However, the question is not whether or not the Appellant continues to be disabled. The CPP disability pension ceases to be payable when a person reaches 65 years of age whether or not they remain disabled¹¹. In this case, the Appellant turned 65 in September 2017. Therefore, her CPP disability pension was no longer payable after September 2017. However, as the Appellant was 65 years old, she was eligible for the CPP retirement pension. Although the amount of the CPP retirement pension is less than the CPP disability pension, the Appellant no longer qualifies for the CPP disability pension, not because she is or is not disabled, but because

⁷ GD 2-12

⁸ GD 2-5 – GD 2-6

⁹ Section 46(1) of the CPP

¹⁰ GD 1-4

¹¹ Section 70(1) and (2) of the CPP

she is 65 years of age. For these reasons, the CPP retirement pension cannot be cancelled in favour of the CPP disability pension.

Worker's Compensation Board issues

[7] The Appellant submitted she was in receipt of a benefit from the Worker's Compensation Board (WCB) from 1988¹². She raised several issues with regard to her involvement with WCB.

[8] Firstly, the Appellant submitted she was unaware that the WCB had not paid CPP contributions on her behalf while she was in receipt of the WCB benefit and she requested that the Tribunal "make workers compensation in Edmonton so they pay my contributions so I have bigger pension to CPP"¹³. This is an issue for the Worker's Compensation Board and I do not have the authority or jurisdiction to make determinations regarding Worker's Compensation Board claims or to require them to make CPP contributions. The Tribunal is created by legislation and, as such, it has only the powers granted to it by its governing statute. I am required to interpret and apply the provisions as they are set out in the CPP.

[9] Secondly, the Appellant submitted that "I didn't get any information what Worker's Compensation Board wrote to the Tribunal in this matter"¹⁴. The Tribunal provides a copy of any submissions and/or documents received from either party to both parties. On November 19, 2018, the Appellant was provided with 15 pages of documents received from the Respondent, which are identified as GD 2. On November 20, 2018, the Appellant was provided with the submissions of the Respondent, which are identified as GD 3. The Appellant provided a Notice of Readiness and her submissions to the Tribunal, which are identified as GD 4 and GD 5. The documents which the Tribunal has received have been provided to the Appellant. The Tribunal does not contact third parties for information and has therefore, not contacted the Worker's Compensation Board. If the Appellant wishes to have additional explanations or information from Worker's Compensation Board, she would need to contact them directly.

¹² GD 1-2

¹³ GD 1-2

¹⁴ GD 5-1

[10] While I am sympathetic to the Appellant's situation, I find that the Appellant no longer qualifies for a CPP disability pension as she is now 65 years of age. I also find that her CPP retirement pension has been calculated correctly and in accordance with the CPP.

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

CONCLUSION

[12] The appeal is summarily dismissed.

Connie Dyck
Member, General Division - Income Security