



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. W. v Minister of Employment and Social Development and C. W.*, 2019 SST 65

Tribunal File Number: AD-18-762

BETWEEN:

R. W.

Appellant

and

Minister of Employment and Social Development

Respondent

and

C. W.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Valerie Hazlett Parker

DATE OF DECISION: January 29, 2019

DECISION AND REASONS

DECISION

[1] The appeal is dismissed.

OVERVIEW

[2] R. W. (Claimant) and C. W. (Added Party) began to live in a common-law relationship in 2005 and married in 2008. They separated in 2016. In November 2017, the Claimant applied for a division of Canada Pension Plan credits earned during the relationship. The Minister of Employment and Social Development (Minister) divided these credits. The Claimant then requested that this credit split be reversed. The Added Party agreed with the request. The Minister refused the request because the *Canada Pension Plan* (CPP) does not provide for a reversal of a credit split.

[3] The Claimant appealed the Minister's decision to the Tribunal. The Tribunal's General Division summarily dismissed the appeal, finding that it had no reasonable chance of success. The Claimant appeals this decision to the Tribunal's Appeal Division. The appeal is dismissed because the General Division did not make an error.

PRELIMINARY MATTERS

[4] This appeal was decided based on the written record, after considering the following:

- The legal issue in this appeal is straightforward;
- The parties' positions on the issue are clear;
- The parties attended a pre-hearing teleconference and discussed the legal issue in the appeal;

- The *Social Security Tribunal Regulations* require that proceedings be conducted as informally and quickly as the circumstances and considerations of fairness and natural justice permit.¹

ISSUE

[5] Did the General Division make any error under the *Department of Employment and Social Development Act* (DESD Act) in its decision?

ANALYSIS

[6] The DESD Act governs the Tribunal's operation. It sets out only three grounds of appeal that the Appeal Division can consider. They are that the General Division failed to observe a principle of natural justice or made a jurisdictional error, made an error in law, or based its decision on an erroneous finding of fact made in a perverse or capricious manner or without regard for the material before it.² Therefore, for an appeal to be allowed, a party must prove that it is more likely than not that the General Division made at least one of these errors.

[7] The Claimant argues that neither he nor the Added Party want a credit split, and that he needs his full Canada Pension Plan pension for his retirement. This information was before the General Division.³ The decision correctly states that a credit split is mandatory for divorced spouses once the Minister is notified of the divorce⁴ and that this case does not fall into any exception to this rule.⁵ The General Division correctly concluded that it has no legal authority to reverse the credit split.⁶ It made no error in law.

[8] The facts are not disputed, and the General Division did not overlook or misconstrue any important information. There is no suggestion that it failed to observe a principle of natural justice.

¹ *Social Security Tribunal Regulations*, s 3(1).

² DESD Act, s 58(1).

³ General Division decision at paras 6 and 8.

⁴ *Ibid.* at para 10.

⁵ *Ibid.* at paras 11 and 12.

⁶ *Ibid.* at para 14.

[9] Therefore, the General Division made no error under the DESD Act.

CONCLUSION

[10] The appeal is dismissed

Valerie Hazlett Parker
Member, Appeal Division

METHOD OF PROCEEDING:	On the record
WRITTEN SUBMISSIONS:	R. W., Appellant