



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. E. v Minister of Employment and Social Development*, 2019 SST 405

Tribunal File Number: GP-17-2011

BETWEEN:

G. E.

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: March 11, 2019

REASONS AND DECISION

DECISION

[1] G. E. (referred to as the Claimant) is not entitled to a Canada Pension Plan (CPP) Survivor's pension and Children's benefit pension. The reason is because Mr. M. (referred to as the contributor) needed to pay into the CPP plan for 8 years, but he only paid in for 6 years.

OVERVIEW

[2] The contributor passed away on March 27, 2016.¹ The Claimant applied for a Survivor's pension and Children's benefit in May 2016². The Minister of Employment and Social Development (referred to as the Respondent) turned her down. The Respondent said she was not entitled to benefits because the contributor had only paid into the CPP for 6 years and he needed pay contributions for 8 years³. As a result, the Claimant was not eligible for the benefits.

[3] The Claimant appealed to the Social Security Tribunal (referred to as the Tribunal) on August 11, 2017⁴.

[4] The Claimant had requested that the Canada Revenue Agency reassess the contributor's tax returns. The reassessment was not completed when the Claimant appealed to the Tribunal, so the Tribunal put the appeal on hold (in abeyance). On January 2, 2019, the Canada Revenue Agency told the Respondent that no reassessment could be done of the tax returns for 2008, 2009, and 2010 as they were filed 4 years past the due date. This meant that no changes could be made to the tax returns. It remained that the contributor had no pensionable earnings in these years and did not pay into the CPP plan in these years.⁵ As a result, he had earnings in only 6 years (2000, 2003, 2005, 2006, 2007 and 2013⁶).

[5] The Tribunal told the Claimant that I was considering summarily dismissing her appeal⁷ because I agreed that the contributor had not paid into the CPP for enough years and therefore

¹ GD 2R-17

² GD 2R-4

³ GD 2R-12

⁴ GD 1

⁵ GD 10-7

⁶ GD 2R-16

⁷ GD 0

was not eligible for the benefits. I must summarily dismiss an appeal if I am satisfied that the appeal has no reasonable chance of success. I allowed the Claimant time to explain in writing if she believed her appeal had a reasonable chance of success, but she did provide any response.

ISSUE AND ANALYSIS

[6] I need to decide if the Claimant is entitled to receive the CPP Survivor's Pension and Children's benefit.

[7] To qualify for a CPP Survivor's Pension and Children's benefit, the contributor, Mr. M., must have made at least the minimum amount of contributions required, which is 1/3 of the total number of years with the contributory period⁸. The contributory period of Mr. M. is 22 years from October 1995 (the month after he turned 18) to March 2016, (the month in which he passed away). To be eligible for the benefits, Mr. M. would need 8 years of contributions. Although 1/3 of 22 years is 7.3 years, the CPP does not deal in partial years, so 7.3 years is rounded up to 8 years.

[8] Mr. M. had valid contributions in only 6 years (2000, 2003, 2005, 2006, 2007 and 2013)⁹ and not 8 years as required to meet the minimum contributory requirement to be eligible for the benefits.

CONCLUSION

⁸ Subsection 44(3) of the CPP

⁹ GD 2R-16

[9] I am sympathetic to the Claimant's situation and her argument that not allowing her the benefits is not fair because her husband was not well emotionally and mentally and had addiction issues.¹⁰ However, I must apply the provisions as they are set out in the CPP and because the contributor did not pay into the CPP for the minimum number of years (8 years) required, I must dismiss the appeal.

Connie Dyck
Member, General Division - Income Security

¹⁰ GD 1-6