



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *L. M. v Minister of Employment and Social Development*, 2019 SST 539

Tribunal File Number: GP-18-2228

BETWEEN:

L. M.

Claimant

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Patrick O'Neil

Teleconference hearing on: May 21, 2019

Date of decision: May 24, 2019

DECISION

[1] The Claimant is not entitled to the *Canada Pension Plan* (CPP) death benefit or the CPP survivor's pension

OVERVIEW

[2] The Minister received the Claimant's applications for the CPP death benefit¹ and survivor's pension² as executor and spouse respectively of the deceased contributor J. M. (deceased contributor) who died July 20, 2017. The Minister denied the applications initially and on reconsideration as J. M. did not meet the CPP minimum contributory requirements for payment of the death benefit and survivor's pension. The Claimant appealed the reconsideration decisions to the Social Security Tribunal.

ISSUE(S)

[3] Did the deceased contributor J. M. make sufficient contributions to the CPP to meet the minimum qualifying period (MQP) requirements for the Claimant to be entitled to the CPP death benefit and/or the CPP survivor's pension?

ANALYSIS

[4] To qualify for a CPP death benefit and survivor's pension, a Claimant must meet the requirements that are set out in the CPP. A death benefit shall be paid to the estate or survivor of a deceased contributor who has made base contributions for not less than the minimum qualifying period³. A survivor's pension shall be paid to the survivor of a deceased contributor who has made base contributions for not less than the minimum qualifying period⁴.

¹ GD2 pages 12-14

² GD2 pages 16-20

³ Paragraph 44(1)(c) CPP

⁴ Paragraph 44(1)(d) CPP

[5] The Minimum Qualifying Period for entitlement to the CPP death benefit and survivor's pension requires the deceased contributor to have made valid contributions to the CPP for at least one-third of the deceased contributor's contributory period⁵ or for at least ten years⁶.

[6] J. M. was born January XX, 1949. Her contributory period began February 1967, the month after she turned age eighteen, and ended January 2009, the month before she began receiving a CPP retirement pension, being 42 years.

[7] J. M. and the Claimant are the parents of sons born in 1971, 1975, and 1983. The child-rearing dropout (CRDO) provision of the CPP allows periods of low or no earnings to be dropped from J. M.'s contributory period while she remained home to raise her children under the age of eighteen⁷. Prior to taking into account the CRDO, J. M.'s contributory period was 42 years. The MQP for purposes of the death benefit and survivor's pension is ten years. J. M.'s CRDO is 13 years. J. M.'s contributory period taking into account the CRDO is 29 years, being 42 years less 13 years dropped due to the CRDO. I find the MQP for purposes of the death benefit and survivor's pension is still ten years (29 years divided by 3 is 9.66 years, being 10 years when rounded up to whole years).

[8] The deceased contributor's CPP contribution statement⁸ confirms valid contributions to the CPP in 1968, 1969, 1970, 1981, 1982, 1988, 1989, 1990, and 1991, being 9 years. As J. M.'s Minimum Qualifying Period to meet the eligibility requirements for the Claimant's entitlement to the CPP death benefit and survivor's pension is 10 years, I find the Claimant is not entitled to the death benefit or survivor's pension.

[9] J. M. died July 20, 2017⁹. J. M. had been unable to work since 1991 because of serious medical conditions. The Claimant acknowledged J. M. had not made the required contributions to the CPP to meet the Minimum Qualifying Period required for him to be eligible for the death benefit and/or the survivor's pension. He asked for an exception to the rule that require 10 years

⁵ Paragraph 44(3)(a) CPP

⁶ Paragraph 44(3)(b) CPP

⁷ Paragraph 49(d) CPP

⁸ GD2 page 5

⁹ GD2 page 23 proof of death certificate

of contributions to be eligible for the death benefit and the survivor's pension as J. M. was unable to work and contribute to the CPP since 1991.

[10] The Tribunal is created by legislation and, as such, I only have the powers granted by the governing statute. I am required to interpret and apply the provisions set out in the CPP. I cannot use the principles of fairness or equity or consider extenuating circumstances, including J. M.'s health prior to her death, to grant payment of the death benefit and survivor's pension other than as prescribed by the CPP.

CONCLUSION

[11] The appeal is dismissed.

Patrick O'Neil
Member, General Division - Income Security