



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. A. v Minister of Employment and Social Development*, 2019 SST 640

Tribunal File Number: GP-18-887

BETWEEN:

A. A.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: George Tsakalis

Teleconference hearing on: June 5, 2019

Date of decision: June 7, 2019

DECISION

[1] The Claimant, A. A., applied for a Disabled Contributor Child Benefit (DCCB). The Minister of Employment and Social Development (the Minister) decided that she was not eligible to receive a DCCB from September 2017 to December 2017. The Claimant appealed the Minister's decision to the Social Security Tribunal (the Tribunal). I am allowing the appeal. These reasons explain why.

OVERVIEW

[2] The Claimant was born in 1995. She took a X course at Ryerson University (Ryerson) from September 2017 to December 2017. She advised the Minister that she also took a course at the University of Toronto (U of T). The Minister asked her to provide a declaration of attendance from the U of T, which she did not supply. The Minister took the position that the Claimant's combined course load from Ryerson and the U of T constituted part-time attendance, and as such, the Claimant was not eligible for the DCCB from September 2017 to December 2017.¹

[3] The Claimant took the position that she attended school on a full-time basis from September 2017 to December 2017.²

THERE IS ONE ISSUE IN THIS APPEAL

[4] A DCCB is payable to the child of a parent who is entitled to a Canada Pension Plan (CPP) disability benefit.³

[5] A disabled contributor's child is a dependent child of a disabled contributor. A dependent child is under the age of 18, or over the age of 18 and under the age of 25 and in full-time attendance at school or university as defined by the regulations.⁴

¹ See GD3-2-3

² See GD1-2

³ See Paragraph 44(1)(e) *Canada Pension Plan*

⁴ See Subsection 42(1) *Canada Pension Plan*

[6] The issue that I must determine is whether the Claimant was in full-time attendance at school or university, given that the Claimant was under 25 at the time of the application for the DCCB.

ANALYSIS

[7] The *CPP Regulations* state that the term “full-time attendance at a school or university” in the CPP legislation means full-time attendance at a school, college, university or other educational institution that provides training or instruction of an educational, professional, vocational or technical nature.⁵

The Claimant proved that she attended university on a full-time basis from September 2017 to December 2017

[8] The Tribunal file shows that the Minister took the position that full-time attendance for the purposes of the CPP was 60% of a full-course load.⁶ The Minister’s position is a definition it created through policy. It is not based on legislation. Section 66 of the *CPP Regulations* confirms that a dependant child must attend school on a full-time basis, but it does not go further to define full-time attendance. The question of full-time attendance is a question of fact for each situation. After reviewing the documentary evidence and the Claimant’s hearing evidence, I am satisfied that she attended university on a full-time basis from September 2017 to December 2017. I find that she took 60% of a full-course load and met the Minister’s policy definition for full-time attendance at a school or university.

[9] The Tribunal file contains a declaration of attendance signed by the Claimant and a Ryerson official on September 14, 2017. The declaration stated that the Claimant was a full-time student at Ryerson. She was taking a 40% course load at RU, but the declaration also stated that she was a visiting student at the U of T.⁷

[10] The Tribunal file contains another declaration of attendance signed by the Claimant and a Ryerson official on January 16, 2018. This declaration stated that the Claimant was a full-time

⁵ See Section 66 *CPP Regulations*

⁶ See GD2-7

⁷ See GD2-16-17

student at Ryerson. She took a 40% course load at Ryerson from September to December 2017. This declaration did not reference any courses at the U of T.⁸

[11] The Minister asked the Claimant to obtain a declaration of attendance from the U of T, but the Minister never received such a document from the Claimant.⁹

[12] The Claimant testified that she took two course at Ryerson from September to December 2017. Her normal course load in one semester was five courses, which the Minister seemed to recognize by accepting that she took a 40% course load at Ryerson. The Claimant required a course for her degree that Ryerson did not offer. The U of T offered this course, which she took in the fall of 2017. The Claimant therefore takes the position that she took three university courses for her Ryerson degree that semester, which means that she had a 60% course load and was thus a full-time university student in accordance with the Minister's definition.

[13] The Claimant testified that she did not provide a declaration of attendance from the U of T because officials from the university never provided her with one. Instead, the U of T provided her with a confirmation of enrollment dated April 5, 2018, which states that the Claimant registered as a non-degree student for the 2017-2018 fall/winter session. The U of T confirmed that the Claimant began her attendance there in September 2017.¹⁰

[14] The Claimant also provided the Tribunal with a letter of permission from Ryerson dated May 31, 2017 that allowed her to enroll in a linear algebra course at the U of T.

[15] There is a statement in the file from Ryerson, which shows that the Claimant took a 40% course load at that institution in the fall of 2017.¹¹ I am satisfied based on the hearing evidence that the Claimant took another course at the University of Toronto beginning in September 2017 that would have brought her course load to 60%.

[16] I therefore find that the Claimant proved on a balance of probabilities that she attended university on a full-time basis from September to December 2017.

⁸ See GD2-8-9

⁹ See GD3-2

¹⁰ See GD1-8

¹¹ See GD2-7

CONCLUSION

[17] The Claimant proved that she attended university on a full-time basis from September 2017 to December 2017. She is entitled to a DCCB from September 2017 to December 2017.

[18] The appeal is allowed.

George Tsakalis
Member, General Division - Income Security