



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *AR v Minister of Employment and Social Development*, 2019 SST 1685

Tribunal File Number: GP-19-1140

BETWEEN:

**A. R.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security Section**

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DECISION BY: Pierre Vanderhout

DATE OF DECISION: October 22, 2019

## **REASONS AND DECISION**

### **OVERVIEW**

[1] This is a tragic case involving the accidental death of a young husband and father of two young children.

[2] The Appellant applied for a Canada Pension Plan (“CPP”) death benefit, a CPP survivor’s pension, and CPP surviving child’s benefit, in connection with the accidental death of N. A. S. (the “Contributor”) on June 14, 2018. The Contributor was the Appellant’s husband. The Respondent denied the application initially and upon reconsideration. The Appellant appealed the reconsideration decision to the Social Security Tribunal (“Tribunal”) on July 10, 2019.

[3] Subsection 53(1) of the *Department of Employment and Social Development Act* states that the General Division must summarily dismiss an appeal if satisfied that the appeal has no reasonable chance of success.<sup>1</sup>

[4] I have decided that this appeal has no reasonable chance of success, for the reasons set out below.

### **ISSUE**

[5] Did the Contributor make enough contributions to the CPP, for the Appellant to receive the CPP death benefit, the CPP survivor’s pension, and the CPP surviving child’s benefit?

### **ANALYSIS**

[6] The Appellant was given notice in writing of the intent to summarily dismiss the appeal. She was allowed a reasonable period to make submissions, as required by section 22 of the *Social Security Tribunal Regulations*. Her submissions were received on October 10, 2019.

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<sup>1</sup> *Miter v. Canada (Attorney General)*, 2017 FC 262

**Did the Contributor make enough contributions to the CPP, for the Appellant to receive the claimed CPP benefits?**

[7] The Contributor was born on April 30, 1982. There is no question that he made valid contributions to the CPP in 2016, 2017, and 2018.<sup>2</sup> I accept the Appellant's submission that the Contributor would likely have continued making CPP contributions, had he lived. I also accept that the Contributor did not enter Canada until 2015, and could not make CPP contributions before then. However, I am required to consider actual contributions, rather than likely or intended contributions. This means that he had only three years of valid CPP contributions.

[8] While the CPP allows certain years to be removed from a person's contributory period, none of those "exemptions" apply in this case. There is no suggestion that the Contributor received disability benefits under the CPP or a provincial pension plan. There was also no suggestion that he received family allowance benefits during a year in which his earnings were below the basic exemption amount.<sup>3</sup>

[9] The *Canada Pension Plan* says that a death benefit, a survivor's pension, and a surviving child's benefit are only payable if the Contributor made valid CPP contributions for "not less than the minimum qualifying period".<sup>4</sup> This requirement is met when the deceased person contributed for at least ten years, or for at least one third of the total number of years included either wholly or partly within his contributory period.<sup>5</sup>

[10] The Contributor's contributory period began in May 2000, which was the month after his 18<sup>th</sup> birthday. His contributory period ended in June 2018, which was the month of his death.<sup>6</sup> As a result, his contributory period lasted just over 18 years. This means he must have valid contributions for at least seven years in order for the claimed benefits to be payable. However, as he only made valid contributions for three years, none of the benefits are payable.

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<sup>2</sup> GD2-4

<sup>3</sup> Section 49 of the *Canada Pension Plan*

<sup>4</sup> Subsection 44(1) of the *Canada Pension Plan*

<sup>5</sup> Paragraph 44(1)(f) and subsection 44(3) of the *Canada Pension Plan*

<sup>6</sup> Section 49 of the *Canada Pension Plan*

[11] The Appellant said the benefits should still be payable, as the Contributor made valid CPP contributions almost immediately upon arriving in Canada and continued making them until he died. She noted that his contributory period started 15 years before he actually arrived in Canada. This obviously made it very hard for him to meet the contributory requirements. She also said she had two young children and no source of income in Canada. Because of hardship, she asked that benefits be granted on humanitarian and compassionate grounds.<sup>7</sup>

[12] I have great sympathy for the Appellant and her children. The Contributor's death was a tragic and unforeseen accident. However, the Tribunal is created by legislation. It only has 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 *Canada Pension Plan*. I cannot waive or change them, even though they may appear to be unfair in a particular situation. I do not have the discretion to award benefits where there is no entitlement. Financial need is not one of the criteria for the benefits, nor are compassionate or humanitarian grounds.

[13] There is no reasonable basis on which I could find that the Contributor met the contributory requirements. As a result, I find that the appeal has no reasonable chance of success.

## **CONCLUSION**

[14] The appeal is summarily dismissed.

Pierre Vanderhout  
Member, General Division - Income Security

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<sup>7</sup> GD5-2