



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *L. M. v Minister of Employment and Social Development*, 2019 SST 1658

Tribunal File Number: GP-19-1437

BETWEEN:

L. M.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Brian Rodenhurst

Videoconference hearing on: November 8, 2019

Date of decision: November 14, 2019

DECISION

[1] The Claimant application for retroactive Canada Pension Plan (CPP) survivor pension is denied.

OVERVIEW

[2] The Claimant L. M. applied for retroactive Canada Pension Plan (CPP) survivor pension (SVR). L. M. qualified for a SVR due to CPP amendments effective January 1, 1999.

[3] On January 4, 2019, the Department advised L. M. there were amendments to the CPP effective January 1, 2019. The amendments removed qualifying conditions to receive a SVR when a survivor is under 35 years of age. L. M. applied and qualified for a SVR and receives a monthly payment.

[4] Her spouse R. W. passed away when L. M. was 34 years and 10 months of age. L. M.'s birthdate is X, 1963. R. W. passed away on July 9, 1998. At the time of her spouse's passing, she did not qualify for a SVR. When the survivor was under the age of 35 years, there were qualifying conditions. If she became disabled, give birth to a child of the contributor or turned the age of 65 she would qualify. An amendment of the CPP effective January 1, 2019, removed the qualifying conditions. L. M. commenced receiving a SVP payment. The issue in the appeal is her application to have the payment retroactive to the date her spouse passed away.

[5] The Minister denied her request for retroactive payments and confirmed the denial on reconsideration. The Minister's position is the Claimant is not entitled to retroactive SVR for the period prior to January 1, 2019.

ISSUE(S)

[6] Does the Claimant qualify for retroactive payment of Canada Pension Plan survivor pension to July 1998 when her spouse passed away?

ANALYSIS

Disability

[7] If the Claimant became disabled¹ she could re-apply for a SVR. Ms. Mills confirmed she has not experienced a disability. She has enjoyed good health participated in one-half marathons, hiking and employed full-time as an administrative assistant. She does not qualify under this provision.

[8] The Claimant did not meet the qualifying condition of having a dependent child of the deceased contributor. Under the legislation in existence at the date of the deceased contributor's passing, the Claimant would not qualify until she turned 65 years of age.

Effect of Amendment on Retroactive Payments

[9] The Claimant maintains she should receive retroactive payments as the qualifying conditions were removed in the CPP. The Act specifically deals with the issue.² The result of the Act is after 2018, a SVR is payable to the survivor of a deceased contributor who has made base contributions for not less than the minimum period. In other words, the qualifying conditions remain until after 2018 when the only test is contributions. This results in the Claimant qualifying starting in January 2019.

Authority

[10] The Claimant's opinion is she should not have had to wait for so many years to receive a SVR. She noted she applied not only when R. W. passed away but also when she turned 45 years of age. She feels like she has lost out and this has been difficult for her. She noted that age is not relevant when a spouse is taken away from a person. I gave her an opportunity to address the issue whether I have the authority to waive or vary the provisions of the CPP. She believes the situation is not fair and she should have received the SVR years ago.

[11] I do not have the authority to waive or vary the CPP. The CPP is very clear the Claimant qualifies in January 2019 due to recent amendments. The CPP is very clear the Claimant does not qualify for retroactive SVR payment. The Claimant is frustrated, having to wait for over

¹ As defined in the CPP

² Subsection 58 (1) (d) (ii)

twenty years for a SVR. The legislation identifies the requirements to qualify for SVR, and the payment start date. I am not able to make the payment of the SVR retroactive in the absence of legislative authority.

CONCLUSION

[12] The appeal is dismissed.

Brian Rodenhurst
Member, General Division - Income Security