



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. P. v Minister of Employment and Social Development*, 2019 SST 1451

Tribunal File Number: GP-19-1151

BETWEEN:

C. P.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: George Tsakalis

DATE OF DECISION: November 25, 2019

DECISION

[1] I am summarily dismissing this appeal because it has no reasonable chance of success. The Minister properly calculated the start date of the Claimant's retirement pension.

OVERVIEW

[2] C. P. is the Claimant in this case. She applied for a Canada Pension Plan (CPP) retirement pension in April 2018.

[3] The Minister of Employment and Social Development (the Minister) accepted her application. The Minister decided to award the Claimant a retirement pension with a May 2018 start date.

[4] The Claimant disagrees with the Minister's decision. She believes that her retirement pension should start in October 2017. The Claimant appealed the Minister's decision to the Social Security Tribunal (the Tribunal).

[5] The Claimant argued in her Notice of Appeal that she would have applied for her retirement pension in October 2017, when she turned 60. She filed her application in April 2018 because of personal problems. Her husband fell ill and she had to care of him and help keep his business afloat.

[6] The Minister requested the summary dismissal of this appeal because it has no reasonable chance of success. The Minister argued that it properly calculated the start date of the Claimant's retirement pension.

ISSUE

[7] Does the Claimant's appeal have a reasonable chance of success?

ANALYSIS

I must summarily dismiss this appeal because it has no reasonable chance of success.

[8] I must summarily dismiss an appeal if I am satisfied that it has no reasonable chance of success.¹ There is no reasonable chance of success where it is plain and obvious on the record that the appeal is clearly bound to fail.²

[9] The Claimant was 60 years old when she applied for her retirement pension and her retirement pension was payable on or after January 1, 2012. Her retirement pension therefore starts the latest of the month she reached sixty years of age, the month following the month in which the application was received, and the month chosen by the Claimant in her application.³

[10] The Claimant turned 60 in October 2017. The month following the month the Minister received the application was in May 2018. The Claimant asked for the earliest month that she qualified in her application, which would have been when she turned 60 in October 2017.

[11] The Minister had to pick the latest of these three dates as the start date of the retirement pension. The latest of the three dates was May 2018.

[12] The Minister made the right decision in this case when it awarded the Claimant a retirement pension with a May 2018 start date.

I do not have the jurisdiction to award the Claimant an earlier start date.

[13] I gave the Claimant notice in writing of my intention to summarily dismiss the appeal. I provided the Claimant a reasonable period of time to make submissions as required under Section 22 of the *Social Security Tribunal Regulations*.

[14] The Claimant submitted that she tried to apply online in October 2017 without success. She was advised to go to an office and register her Social Insurance Number. Unfortunately, her husband had a major stroke and she was not in the right frame of mind. She suffered from panic

¹ See Subsection 53(1) *Department of Employment and Social Development Act*

² See *The Estate of J.B. v. Minister of Employment and Social Development*, 2018 SST 564

³ See Subsection 67(3.1) *Canada Pension Plan*

attacks because she feared that her husband would die. She wanted to apply for the retirement pension as soon as she was eligible, but she could not do so because of her personal circumstances that involved taking care of her ill husband.

[15] The Tribunal is created by legislation and I only have the powers that are granted to me by statute. I do not have the ability to waive the requirements of the CPP and award her an earlier start date for her retirement pension on compassionate grounds.

The Claimant did not show incapacity.

[16] I might have been able to award the Claimant an earlier start date for her retirement pension if she showed incapacity under the CPP. In order to show incapacity under the CPP, the Claimant has to prove that she was not able to form or express an intention to apply before the date she actually applied for a retirement pension.⁴ The capacity to form the intention to apply for benefits is similar to the capacity to form an intention with respect to other choices in life.⁵ Based on the documents in the file, there is no allegation or evidence to support incapacity on the part of the Claimant.

[17] I agree with the Minister that I must summarily dismiss this appeal.

[18] I find that this appeal has no reasonable chance of success. It is plain and obvious on the record that this appeal is bound to fail.

CONCLUSION

[19] The appeal is summarily dismissed.

George Tsakalis
Member, General Division - Income Security

⁴ See subsections 60(8) and (9) of the CPP

⁵ *Sedrak v. Canada (Social Development)*, 2008 FCA 86