



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. P. v Minister of Employment and Social Development*, 2019 SST 1452

Tribunal File Number: GP-18-2411

BETWEEN:

S. P.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Kelly Temkin

Teleconference hearing on: November 25, 2019

Date of decision: November 26, 2019

Decision

[1] The effective payment date for the Claimant's Canada Pension Plan (CPP) retirement pension in June 2018. Here are my reasons why:

Overview

[2] The Minister received the Claimant's application for an early retirement CPP pension on May 23, 2018. He was 64 years old when he applied for an early retirement pension. The Minister granted his application, and he started to receive retirement benefits as of June 2018. The Claimant requested that the benefits start as of May 2017. The Minister denied the Claimant's request on reconsideration,¹ and the Claimant appealed to the Social Security Tribunal (Tribunal).

[3] This appeal involves a determination of the effective payment date for the Claimant's CPP early retirement pension.

Analysis

[4] Because the Claimant was under 65 when he applied for the early retirement pension, the earliest date that the retirement pension can be payable is one month after he applied for the benefit.² Since he applied in May 2018, he received the benefit as of June 2018.

[5] The Claimant testified at the hearing. His evidence was straightforward and credible. He testified his financial situation was difficult. The Claimant testified that he became disabled in 2013. However, he is not claiming benefits retroactive to 2013.

[6] The Claimant is requesting that the payment date of his retirement pension commence as of May 2017, because of erroneous advice given to him by a Service Canada representative in a telephone conversation on December 15, 2017.³ He testified that he did not send a letter within

¹ GD2-5

² Subsection 67(3.1) of the CPP.

³ GD4-1

90 days, because the agent told him the disability application on file (June 2017) would be deemed to be an application for a retirement pension.⁴

[7] I have no jurisdiction to deal with the issue of erroneous advice. Only the Minister and the Federal Court (if the Claimant appeals the Minister's decision) has this jurisdiction.⁵

[8] I am bound by the CPP provisions. I cannot exercise any form of equitable power in respect of the appeals coming before me. The Tribunal is a statutory decision-maker and I am required to interpret and apply the provisions as they are set out in the CPP. I have no authority to make exceptions to the provisions of the CPP. Nor can I render decisions based on fairness, compassion, or extenuating circumstances.

[9] In the Minister's submissions, December 28, 2017 and December 18, 2017 are both referred to as dates of the reconsideration decision letter.⁶ May 23, 2018 is more than 90 days after both of these dates.

[10] I am satisfied the reconsideration decision letter is dated December 15, 2017.⁷ The Claimant confirmed this was the reconsideration decision letter he received. The Claimant had 90 days from December 15, 2017 to apply for a retirement pension application and request a deemed protected date of his disability application. However, he did not apply for his retirement pension until May 23, 2018. This is more than 90 days (159 days) after the disability pension was denied on December 15, 2017.⁸

[11] The Claimant's retirement benefits cannot start from May 2017. His retirement pension has an effective date of June 2018.

⁴ GD1-2

⁵ *Pincombe v. AG Canada* [1955] F.C.J. 1320

⁶ GD3-2

⁷ GD4-1

⁸ GD4-1

Conclusion

[12] The appeal is dismissed.

Kelly Temkin
Member, General Division - Income Security