



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. E. v Minister of Employment and Social Development and A. H.*, 2019 SST 1545

Tribunal File Number: GP-19-1314

BETWEEN:

P. E.

Appellant

and

Minister of Employment and Social Development

Respondent

and

A. H.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Raymond Raphael

DATE OF DECISION: December 2, 2019

DECISION

[1] The appeal is summarily dismissed.

OVERVIEW

[2] The Claimant and A. H. were married in April 1982, separated in March 1991, and divorced in March 1995.¹ In July 2018, A. H. applied for a Division of Unadjusted Pension Earnings (DUPE) for the period that the two of them cohabited.² The Minister performed the DUPE for the period that they were married.³ Both the Claimant and A. H. requested that the DUPE be reversed.⁴ The Minister denied this request upon reconsideration⁵, and the Claimant appealed to the Social Security Tribunal (Tribunal).

[3] I must decide whether the Claimant has a reasonable chance of establishing that the DUPE can be reversed.

ANALYSIS

[4] I must summarily dismiss an appeal if satisfied that it has no reasonable chance of success.⁶ I have decided that this appeal has no reasonable chance of success for the reasons set out below.

[5] On October 19, 2019, I notified the Claimant that I was considering summarily dismissing the appeal and gave her a reasonable period of time to make submissions.⁷ The Claimant did not respond.

¹ GD2-37

² GD2-15

³ The Claimant and A. H. reconciled after the divorce and lived together as common-law partners from January 1997 to November 2001. The Minister did not perform the DUPE for period that they lived common-law because the application was received more than 4 years after they separated: GD2-2

⁴ GD2-9 and 11

⁵ GD2-6 to 7

⁶ Subsection 53(1) of the *Department of Employment and Social Development Act*; *Miter v Canada (A.G.)*, 2017 FC 262

⁷ As required by section 22 of the Social Security Tribunal Regulations. A copy of the notice was sent to the Added Party and the Added Party did not respond.

[6] The CPP provides that a DUPE is mandatory in the case of spouses who divorced after January 1, 1987, once the Minister has been informed of the divorce judgment and received the prescribed information.

[7] I recognize that both the Claimant and A. H. have indicated that they do not want the DUPE. However, I have no discretion to reverse the DUPE as requested. The DUPE was performed in accordance with the provisions of the CPP and is mandatory.

[8] I am bound by the CPP provisions. 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 on the basis of fairness, compassion, or extenuating circumstances.

[9] Accordingly, I find that the appeal has no reasonable chance of success.

CONCLUSION

[10] The appeal is summarily dismissed.

Raymond Raphael
Member, General Division - Income Security