



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *MC v Minister of Employment and Social Development*, 2020 SST 968

Tribunal File Number: GP-10-808

BETWEEN:

M. C.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Jean Lazure

DATE OF DECISION: August 5, 2020

DECISION

[1] The Appellant married P. C. on July 14, 1973. They cohabited until May 2008.

[2] On September 16, 2018, P. C. applied for a division of unadjusted pensionable earnings (DUPE).¹ The Minister divided these earnings.

[3] On December 4, 2018, the Appellant requested that the DUPE be disallowed. The Minister of Employment and Social Development denied his request. On May 13, 2019, he appealed this decision.

[4] The appeal is summarily dismissed because it has no reasonable chance of success, for the reasons set out below.

REASONS

[5] The law states that the General Division must summarily dismiss an appeal if satisfied that it has no reasonable chance of success.²

[6] The Appellant was given notice in writing dated May 18, 2020, of the intent to summarily dismiss the appeal and was allowed a reasonable period of time to make submissions.³ On June 11, 2020, the Appellant made the following submissions in response to this notice.

[7] The Appellant points out that there is an Ontario Superior Court judgment between him and P. C. dated November 13, 2012. Paragraph 10 of this judgment states: “All other claims are hereby dismissed.”

[8] The Appellant claims that this paragraph—and the judgment as a whole—means that P. C. opts out of a division of his pension: [translation] “[I]t’s all over. She said that she would

¹ Section 55.1(1)(b)(i), *Canada Pension Plan*.

² Section 53(1), *Department of Employment and Social Development Act; Miter v Canada (AG)*, 2017 FC 262.

³ Section 22, *Social Security Tribunal Regulations*.

not touch my Canadian pension again. That is why item 10 of the Minutes of Settlement reads: ‘All other claims are hereby dismissed.’”

[9] However, this judgment is not binding on the Minister for the purposes of the division mentioned above.⁴ The judgment does not meet two of the conditions set out in the *Canada Pension Plan* to be binding on the Minister, because:

- the written agreement between M. C. and P. C. does not contain a provision that expressly mentions the *Canada Pension Plan* and therefore does not indicate their intention that there be no DUPE;⁵ and

- such a provision is not expressly permitted under the provincial law that governs such agreements, namely that of the Province of Ontario.⁶

[10] In addition, the Appellant states that after their break-up, P. C. appropriated his investments without his knowledge. He also says that he paid P. C. spousal support.

[11] The Tribunal has jurisdiction only over the Minister’s decision that is being appealed. The Tribunal has no jurisdiction to retry the spouses’ case, particularly in terms of the sharing of their assets or the payment of spousal support.

[12] Lastly, the Appellant said that [translation] “the value of [his] Canadian pension is going down again” and that P. C. [translation] “had called the government to ask it to deny the request to equalize [his] Canadian pension, and [he] did not get a response.”

[13] It is not possible for someone who applied for a DUPE to change their mind once the division has been made. Even if changing her mind had been possible, there is no evidence that P. C. did change her mind. Her letter dated July 8, 2020, communicated to the Appellant on June 20, 2020, rather indicates the opposite: “So no I can’t reverse it to M. C.”

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

⁴ Section 55.2(2), CPP.

⁵ Section 55.2(3)(a), CPP.

⁶ Section 55.2(3)(b), CPP.

CONCLUSION

[15] The appeal is summarily dismissed.

Jean Lazure
Member, General Division – Income Security Section