



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *G. B. v Minister of Employment and Social Development and K. B.*, 2020 SST 807

Tribunal File Number: AD-20-723

BETWEEN:

**G. B.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

and

**K. B.**

Added Party

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Valerie Hazlett Parker

DATE OF DECISION: September 24, 2020

## **DECISION AND REASONS**

### **DECISION**

[1] The appeal is dismissed.

### **OVERVIEW**

[2] G. B. (Claimant) and K. B. (Added Party) began to live together in a common-law relationship in 1973. They married in 1977, later separated and were divorced in 2002. The Claimant subsequently applied for a division of unadjusted pensionable earnings (credit split). The Minister of Employment and Social Development performed the credit split. Both the Claimant and the Added Party then requested that the credit split be reversed.

[3] The Minister refused to reverse the credit split. The Claimant appealed this decision to the Tribunal. The Tribunal's General Division summarily dismissed the appeal. It decided that the appeal did not have a reasonable chance of success because the credit split is mandatory when parties are divorced.

[4] The Claimant appeals the General Division decision. The Added Party supports her appeal. The appeal is dismissed because the General Division made no error upon which the Appeal Division can intervene.

### **PRELIMINARY MATTER**

[5] This appeal was decided on the basis of the documents filed with the Tribunal for the following reasons

- a) The legal issue to be decided is straightforward;
- b) The parties filed written submissions that addressed the issues, and there are no gaps in their submissions;
- c) No party requested an oral hearing;

- d) The Tribunal can decide questions of law and fact necessary to dispose of an appeal;<sup>1</sup>
- e) Appeals must be concluded as quickly as the circumstances and considerations of fairness and natural justice permit.<sup>2</sup>

## ISSUES

[6] Did the General Division make an error upon which the Appeal Division can intervene?

## ANALYSIS

An appeal to the Tribunal's Appeal Division is not a re-hearing of the original claim. Instead, the Appeal Division can only decide whether the General Division:

- a) failed to provide a fair process;
- b) failed to decide an issue that it should have, or decided an issue that it should not have;
- c) made an error in law; or
- d) based its decision on an important factual error.<sup>3</sup>

If the General Division has not made any of these errors, the Appeal Division cannot intervene.

[7] In the documents filed with the Appeal Division the Claimant wrote that after she had applied for the credit split the Minister wrote to her and requested further information, stating that if this was not provided the credit split would not be performed. The Claimant did not reply so that the credit split would not be done. The Minister performed the credit split nonetheless. She wants this reversed.

[8] The Added Party also wants the credit split reversed.

[9] However, the General Division decision correctly states that when parties have divorced, the credit split is mandatory, subject to two narrow exceptions.<sup>4</sup> The parties did not fit into either

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<sup>1</sup> *Department of Employment and Social Development Act* s. 64(1)

<sup>2</sup> *Social Security Tribunal Regulations* s. 3(1)

<sup>3</sup> This paraphrases the grounds of appeal set out in s. 58(1) of the *Department of Employment and Social Development Act*

<sup>4</sup> General Division decision at para. 7

of these exceptions.<sup>5</sup> The General Division decision correctly sets out the law and applies it to the facts. Nothing suggests that it made an error in law.

[10] The General Division must also provide the parties with a fair process. This means that each party must have the opportunity to present their legal case to the Tribunal, to know and answer the other party's legal case, and to have a decision made by an independent decision maker based on the law and the facts. Nothing suggests that this was not provided to the parties.

[11] I have read the documents filed with the General Division. The General Division did not overlook or misconstrue any important information. It did not base its decision on any factual error.

[12] That the Claimant and the Added Party disagree with the General Division decision is not a reason for the Appeal Division to intervene.

## **CONCLUSION**

[13] The appeal is therefore dismissed.

Valerie Hazlett Parker  
Member, Appeal Division

METHOD OF PROCEEDING:	On the Record
SUBMISSIONS:	G. B., Appellant  Suzette Bernard, Counsel for the Respondent  K. B., Added Party/Representative for the Added party

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<sup>5</sup> General Division decision at para. 8 and 9