



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *CE v Minister of Employment and Social Development*, 2020 SST 1181

Tribunal File Number: GP-20-100

BETWEEN:

**C. E.**

Appellant (Claimant)

and

**Minister of Employment and Social Development**

Minister

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security Section**

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Decision by: Lianne Byrne

Teleconference hearing on: July 21, 2020

Date of decision: October 15, 2020

## **DECISION**

[1] The Claimant is not entitled to a larger amount for his Canada Pension Plan (CPP) retirement pension.

## **OVERVIEW**

[2] The Minister received the Claimant's application for the retirement pension on March 22, 2017. The Minister approved the application, but subsequently discovered an error in the calculation of the Claimant's pension. The Claimant requested reconsideration of the decision to change the amount of his CPP retirement pension. The Claimant appealed the reconsideration decision to the Social Security Tribunal.

## **PRELIMINARY ISSUES**

[3] The Minister provided additional submissions (GD20) to the Tribunal on July 20, 2020. The Tribunal decided to accept these additional submissions because they were in response to the Claimant's submissions, which were also accepted. The Claimant was given an opportunity to respond to the Minister's submissions in writing after the hearing, which he did. The Minister was also given an opportunity to reply, which it did.

## **ISSUE(S)**

[4] Is the Claimant entitled to receive a larger amount for his CPP retirement pension?

## **ANALYSIS**

### **Facts**

[5] The Claimant applied for the CPP retirement pension on March 22, 2017<sup>1</sup>. In the application, the Claimant wrote that his date of birth is April X, 1952. He requested that his retirement pension commence the month after he turned 65, which would be May 2017. His application was approved.

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<sup>1</sup> GD1-12

[6] It appears that the Minister made an error in calculating the Claimant's monthly pension. For unknown reasons, the wrong date of birth, March X, 1952, was used to calculate his monthly pension

[7] In May 2019, the Minister performed an audit, which uncovered the error. His monthly retirement was recalculated using the correct date of birth. This resulted in a decrease to his monthly pension. His monthly CPP retirement pension for the month of June 2019 was adjusted from \$916.96 to \$910.57. It was also determined that he was paid \$155.96 more than he was entitled to for the period between May 2017 and May 2019.

[8] Although the overpayment of \$155.96 is subject to repayment, the Minister is not seeking repayment of this amount from the Claimant. Therefore, it is not an issue in this appeal. I will focus on the change to the Claimant's monthly CPP retirement pension in June 2019 and thereafter.

[9] The Claimant submitted that there would be no difference to his monthly pension amount if March is used in the calculation rather than April.

[10] The Minister, on the other hand, submitted that the date of birth is an integral factor in establishing the correct amount payable for a CPP retirement pension. The Minister acknowledges an error that resulted in the Claimant's monthly retirement pension entitlement being incorrectly credited with an actuarial adjustment of 0.07% more than he was actually entitled.

### **Legislation**

[11] The Claimant's monthly CPP retirement pension must be calculated in accordance with the provisions set out in the CPP. I have included the relevant sections below.

[12] Section 46(1) of the CPP states as follows:

“... a retirement pension payable to a contributor is a basic monthly amount equal to twenty-five percent of his average monthly pensionable earnings.”

[13] The average monthly pensionable earnings (AMPE) must be calculated pursuant to section 48(1) of the CPP, which states in part as follows:

“...average monthly pensionable earnings are an amount calculated by dividing his total pensionable earnings by the total number of months in his contributory period or by the basic number of contributory months, whichever is greater.”

Note that the AMPE calculation may also involve deductions from a contributor's contributory period as set out in paragraphs 48(2), (3) and (4) of the CPP.

[14] Section 49 of the CPP provides the method of determining an individual's contributory period. It states that the contributory period begins when the contributor reaches eighteen years of age and ends with the month before his retirement pension commences.

[15] In this case, the Claimant's contributory period began in May 1970 and ended in April 2017. I agree with the Minister that this results in 564 months. However, there were 96 months that can be deducted, which results in 468 months ( $564-96=468$ ). The Claimant has not disputed this calculation.

[16] The Claimant's total pensionable earnings must be determined in accordance with section 50 of the CPP, which states as follows:

“The total pensionable earnings of a contributor are the total for all months in his contributory period of his pensionable earnings for each month as provided in section 51.”

[17] Section 51 of the CPP provides the method of determining the adjusted pensionable earnings for a month. The Claimant's adjusted pensionable earnings are determined to be \$1,641,639. The Claimant has not disputed this amount.

[18] The average monthly pensionable earnings (AMPE) is calculated by dividing the adjusted pensionable earnings by the number of months in the contributory period. The Claimant's AMPE is \$1,641,639 divided by 468 months, which is \$3,507.78. The Claimant did not dispute this calculation.

[19] Pursuant to section 46 of the CPP, the Claimant is entitled to 25% of the AMPE. Therefore, his monthly CPP retirement pension as of May 2017 was determined to be \$876.95 with annual increases to account for the changes in the cost of living.

[20] In this case, the Claimant's base calculation is, in effect, the same regardless of whether the correct or incorrect date of birth is used in the calculation. This is because the Claimant's record of contributions showed that he did not have any earnings in April 1970 and therefore this month was "dropped" from the contributory period. In summary, the following calculation was used to determine the basic monthly amount of his monthly CPP retirement pension:

$$\text{\$1,641,639/468}=\text{\$3,507.78}$$

$$25\% \text{ of } \text{\$3,507.78} \text{ is } \text{\$876.95}$$

[21] However, the different dates of birth do result in a different amount when subsections 46(3.1) and (7) of the CPP are applied. These sections provide for actuarial adjustments to the basic monthly amount in circumstances where the CPP retirement pension begins after an individual turns 65. In this case, the actuarial adjustment should not have been applied because the Claimant's CPP retirement pension was supposed to begin at age 65.

[22] However, when the incorrect date of birth was used, an actuarial increase of 0.07% was applied to his basic calculation. This is because his CPP retirement pension was incorrectly determined to be starting two months after the month he turned 65 (rather than the month after he turned 65). For the reasons already stated, the Claimant was not entitled to this increase.

[23] Therefore, I agree with the Minister that the original calculation of the Claimant's monthly CPP retirement pension was incorrect. He is currently receiving the correct monthly CPP retirement pension amount. He has not demonstrated on a balance of probabilities that he is entitled to a greater amount. I agree with the Minister that there are no statutory provisions in the CPP to allow for reinstatement of the Claimant's original calculation, which was incorrect.

## **CONCLUSION**

[24] The appeal is dismissed.

Lianne Byrne  
Member, General Division - Income Security