



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *MC v Minister of Employment and Social Development and PC*, 2020 SST 967

Tribunal File Number: AD-20-776

BETWEEN:

**M. C.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

and

**P. C.**

Added Party

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

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DECISION BY: Jude Samson

DATE OF DECISION: November 6, 2020

## **DECISION AND REASONS**

### **DECISION**

[1] I am dismissing the Appellant's appeal. The General Division did not make an error by refusing to reverse a pension credit split between the Appellant and the Added Party.

### **OVERVIEW**

[2] M. C. is the Appellant in this case. He was married to the Added Party, P. C. They lived as a couple from 1973 to May 2008. In 2018, the Added Party applied for a division of unadjusted pensionable earnings, commonly called a "credit split."

[3] The Appellant requested that the credit split be disallowed. However, the Minister of Employment and Social Development informed him that it had approved the Added Party's application. Therefore, the Minister split the pension credits that the couple had built up from 1973 to 2007 in accordance with the *Canada Pension Plan* (CPP).

[4] The Appellant appealed the Minister's decision to the General Division, but it summarily dismissed his appeal. The General Division found that the Minister had no choice but to approve the Added Party's application for a pension credit split.

[5] The Appellant is now appealing the General Division decision to the Appeal Division. He submits that the General Division did not consider his arguments and misunderstood the facts of the case.

[6] I do not accept the Appellant's arguments. I am dismissing the appeal for the reasons that follow.

### **METHOD OF PROCEEDING**

[7] I am making this decision based on the documents already on file because:

- a) the relevant facts are clear;
- b) the legal issues the appeal raises are not complex; and

- c) appeals to the Tribunal must be conducted as informally and quickly as the circumstances and the considerations of fairness and natural justice permit.<sup>1</sup>

## ISSUES

[8] I can consider only certain types of errors. These are known as “relevant errors.”<sup>2</sup>

Generally speaking, did the General Division:

- a) act unfairly;
- b) fail to decide an issue that it should have, or decide an issue that it should not have;
- c) misinterpret or misapply the law; or
- d) base its decision on an important error regarding the facts in the file?

[9] As part of this decision, I have considered the following issues:

- a) Did the General Division fail to consider the Appellant’s arguments?
- b) Did the General Division base its decision on an important error regarding the Appellant’s reason for leaving his job?

## ANALYSIS

[10] The Appellant has failed to establish that the General Division made a relevant error. As a result, I am dismissing his appeal.

[11] In his notice of appeal, the Appellant submits that the General Division did not consider his arguments, namely:

- a) that the Added Party was supposed to call the government to withdraw her application for a pension credit split;

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<sup>1</sup> This principle is set out in section 3(1)(a) of the *Social Security Tribunal Regulations*.

<sup>2</sup> Section 58(1) of the *Department of Employment and Social Development Act* set outs the relevant errors (or grounds of appeal) that I can consider.

- b) that, according to an Ontario Superior Court judgment, the Added Party waived a CPP pension credit split; and
- c) that the Appellant paid significant spousal support to the Added Party.

[12] I find that the General Division considered all of the Appellant's arguments. On this point, I note, in particular, paragraphs 7 to 13 of the General Division decision.

[13] The Appellant's arguments are understandable, but they are not relevant within the legal framework of this case. Except in rare situations that do not apply here, the Minister is required to approve an application for a pension credit split.<sup>3</sup>

[14] For the reasons that the General Division described, the Minister was not bound by any agreement between the Appellant and the Added Party, or by a judgment of the Ontario Superior Court.<sup>4</sup> Specifically, the agreement between the Appellant and the Added Party does not contain a provision that expressly mentions the CPP and, in any event, the law of Ontario does not permit such a provision.<sup>5</sup>

[15] The only potential error I noted in the General Division decision is at paragraph 13. In that paragraph, the General Division wrote that the Added Party could not change her mind once the Minister had made the division. This argument could be contradicted by the sections of the CPP that allow a person to withdraw their application for a division by sending a notice in writing to the Minister no later than 60 days after the date they receive notification of the decision about the application.<sup>6</sup>

[16] However, this potential error is inconsequential. As the General Division noted, there is no evidence that the Added Party changed her mind.<sup>7</sup> Moreover, the Appellant argues that the

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<sup>3</sup> The Minister's obligations are set out in section 55.1 of the *Canada Pension Plan* (CPP).

<sup>4</sup> As required under section 55.2(2) of the CPP.

<sup>5</sup> The Minister has to apply the credit split unless the conditions set out in section 55.2(3) of the CPP are met.

<sup>6</sup> See sections 45(3) to 45(5) of the *Canada Pension Plan Regulations*.

<sup>7</sup> See the Added Party's letter dated July 8, 2020 (at page GD6-1), and the Minister's submissions (at page GD4-2).

Added Party tried to withdraw her credit split application over the phone, but such an application can only be withdrawn in writing.<sup>8</sup>

[17] If the Appellant feels that the Added Party violated a decision of the Ontario Superior Court or that a lawyer gave him bad advice, his recourse lies elsewhere. He could consult a legal advisor for more information in this regard.

[18] Concerning the reason the Appellant stopped working, the General Division did not base its decision on such an error. The confusion that the Appellant expressed is not the result of the General Division decision. Rather, it stems from a standard letter that the Tribunal sent to the Appellant after the date of the General Division decision and that was never designed to address the facts of his particular situation.<sup>9</sup>

[19] Therefore, overall, the Appellant has not satisfied me that the General Division made a relevant error.

## CONCLUSION

[20] I sympathize with the Appellant's circumstances. However, I cannot use the principles of equity or consider extenuating circumstances to reverse a pension credit split.

[21] Since the Appellant has failed to establish that the General Division made a relevant error, I have no choice but to dismiss his appeal.

Jude Samson  
Member, Appeal Division

METHOD OF PROCEEDING:	On the record
REPRESENTATIVE:	M. C., self-represented

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<sup>8</sup> This requirement is set out under section 45(3) of the *Canada Pension Plan Regulations*.

<sup>9</sup> See the Tribunal's letter dated August 18, 2020.