



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *BH v Minister of Employment and Social Development*, 2021 SST 86

Tribunal File Number: GP-20-1378

BETWEEN:

**B. H.**

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: Virginia Saunders

Teleconference hearing on: January 7, 2021

Date of decision: January 8, 2021

## **DECISION**

[1] I am dismissing the appeal. The Claimant, B. H., is not entitled to a *Canada Pension Plan* (CPP) death benefit.

## **OVERVIEW**

[2] H. N. died in December 2019. The Claimant, her daughter, is the executor of her estate.

[3] The Claimant applied for a CPP death benefit in January 2020.<sup>1</sup> The Minister denied the application. The Minister said a death benefit could not be paid because H. N. did not contribute to the CPP for the required number of years.<sup>2</sup>

[4] The Claimant appealed to the Social Security Tribunal, because of financial circumstances, and because she had evidence that her mother might have worked and contributed to the CPP in more years than the Minister gave her credit for.<sup>3</sup>

[5] At the hearing, the Claimant also argued that she should at least receive a pro-rated death benefit based on the years her mother made contributions, or that an exception to the contribution rules should be made in this case.

## **WHAT I HAVE TO DECIDE**

[6] I have to decide if the Claimant is entitled to a CPP death benefit on behalf of her mother's estate.

## **THE REASONS FOR MY DECISION**

[7] Although I have sympathy for the Claimant, I cannot decide in her favour. H. N. did not make enough contributions to the CPP for her estate to be entitled to a CPP death benefit. The law does not allow me to award a partial death benefit, or to make an exception to the contribution rules for any reason.

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<sup>1</sup> GD2-4-7

<sup>2</sup> The Minister's initial decision is at pages GD2-8-9. The reconsideration decision is at pages GD2-12-13.

<sup>3</sup> GD1-1-2

***H. N. needed ten years of CPP contributions***

[8] The CPP says a death benefit is payable where a deceased contributor (in this case, H. N.) “has made base contributions for not less than the minimum qualifying period.”<sup>4</sup> A “base contribution” is a CPP contribution.<sup>5</sup> The “minimum qualifying period” is one-third of the years in the person’s contributory period (but no less than three years), or ten years.<sup>6</sup>

[9] H. N.’s contributory period began in January 1966, when the CPP came into force. It ended in December 1998, the month before she started receiving a CPP retirement pension.<sup>7</sup>

[10] The CPP allows years to be removed from the contributory period in some circumstances. This helps some people who are unable to work and make contributions. But the exceptions are limited, and they do not apply to H. N.

[11] First, years in which a parent is out of the workforce to care for a child under age seven can be excluded from the contributory period, if the parent earned less than the Year’s Basic Exemption.<sup>8</sup> H. N.’s only child was born in November 1963.<sup>9</sup> She turned seven in 1970. The years 1966 through 1969 might have been excluded from H. N.’s contributory period, but they were not because she earned above the Year’s Basic Exemption in all of them.<sup>10</sup>

[12] Second, periods of disability can be excluded from the contributory period where a person was determined to be disabled under the CPP.<sup>11</sup> H. N. did not receive CPP disability benefits, so no such determination was made in her case.

[13] This means there were more than 30 years in H. N.’s contributory period. So she needed to have made contributions in at least 10 years for a death benefit to be payable.

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<sup>4</sup> Paragraph 44(1)(c) *Canada Pension Plan*

<sup>5</sup> Subsection 2(1) *Canada Pension Plan*

<sup>6</sup> Subsection 44(3) *Canada Pension Plan*

<sup>7</sup> Section 49 *Canada Pension Plan*

<sup>8</sup> Subsection 49(d) *Canada Pension Plan*. The Year’s Basic Exemption during the period in question was \$600.00 (<https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/payroll/payroll-deductions-contributions/canada-pension-plan-cpp/cpp-contribution-rates-maximums-exemptions.html>).

<sup>9</sup> GD2-15

<sup>10</sup> Her earnings are shown in the column called “Base UPE” in the chart on page GD2-17

<sup>11</sup> Subsection 49(c) *Canada Pension Plan*; *Canada (Attorney General) v. Storto* (1994), 174 NR 221 (FCA)

***H. N. made CPP contributions in four years***

[14] H. N. contributed to the CPP in 1966, 1967, 1968 and 1969.<sup>12</sup> She also contributed in 1970, but the contribution was refunded because she did not earn enough income that year.<sup>13</sup>

[15] The Claimant and her husband testified that H. N. worked up to 1972, when her health caused her to stop. The Claimant was nine years old at the time. She remembers her mother working every day while she was at school. She was not sure how many hours per day, but thought it was probably around six. She submitted a collective agreement for 1969 and later, which she offered as proof of her mother's employment.<sup>14</sup>

[16] I believe the Claimant and her husband. However, I cannot credit H. N. with CPP contributions that she did not make. Her Record of Earnings is presumed to be accurate and cannot be called into question after four years from when an entry was made.<sup>15</sup>

[17] The Minister has the power to correct the Record of Earnings.<sup>16</sup> Sometimes it makes sense to adjourn a hearing and ask the Minister to pursue this option. It does not make sense in this case. Except for the collective agreement, which does not deal with her mother's personal circumstances, the Claimant does not have any records or other information to support what she recalls. Even if she did, at most there would be an additional three years of contributions, for a total of seven. As explained above, H. N. needed ten years of contributions.

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<sup>12</sup> Her contributions are shown at page GD2-17.

<sup>13</sup> CPP contributions are only made when a person's employment income is over an amount called the Year's Basic Exemption. In 1970, the amount was \$600.00. <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/payroll/payroll-deductions-contributions/canada-pension-plan-cpp/cpp-contribution-rates-maximums-exemptions.html>

<sup>14</sup> GD1-4-16

<sup>15</sup> Subsection 97(1) *Canada Pension Plan*

<sup>16</sup> Subsection 97(2) *Canada Pension Plan*

***There is no partial or pro-rated death benefit***

[18] The Claimant argued she should receive a partial; or pro-rated death benefit based on four or seven years of contributions. This is an appealing solution. However, the CPP does not allow it. It says the death benefit is a lump sum of \$2500.00.<sup>17</sup> Nothing in the CPP authorizes payment of a partial amount.

**CONCLUSION**

[19] As much as I sympathize with the Appellant, I must follow the law. I do not have the power to disregard the minimum contributory requirements for compassionate or other reasons. The deceased contributor, H. N., needed to have made contributions to the CPP in ten years for the death benefit to be payable. Because she contributed in only four years, she did not make enough contributions.

[20] The appeal is dismissed.

Virginia Saunders  
Member, General Division - Income Security

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<sup>17</sup> Subsection 57(1) *Canada Pension Plan*