



Citation: *MA v Minister of Employment and Social Development*, 2021 SST 510

## **Social Security Tribunal of Canada General Division – Income Security Section**

# **Decision**

<b>Appellant (Claimant):</b>	M. A. (Claimant)
<b>Respondent:</b>	Minister of Employment and Social Development (Minister)
<b>Decision under appeal:</b>	Minister of Employment and Social Development reconsideration decision dated January 7, 2021 (issued by Service Canada)
<b>Tribunal member:</b>	Kelly Temkin
<b>Type of hearing:</b>	Teleconference
<b>Hearing date:</b>	July 13, 2021
<b>Hearing participants:</b>	Appellant's witness
<b>Decision date:</b>	July 26, 2021
<b>File number:</b>	GP-21-315

## **DECISION**

[1] M. A. is the Claimant. I am dismissing his appeal. This decision explains my reasons why.

## **OVERVIEW**

[2] In November 2020, the Claimant requested reconsideration of the start date for his retirement pension. The Claimant indicated that he sent an earlier application for a retirement pension. A search was conducted and an application was located with a date stamp of April 30, 2020. The Minister of Employment and Social Development (Minister) amended the Claimant's effective date from November 2020 to May 2020 based on the application date stamped April 30, 2020. The Minister started paying the Claimant's pension in May 2020.

[3] The Claimant was not satisfied with the reconsideration decision of the Minister, as he claims that a first application (meaning that three total applications were made) was submitted in February 2020. The Claimant would like for the effective date of payment to therefore be amended from May to 2020 to March 2020, the month after it would have been received.

[4] The Claimant said it was difficult to recall details of the application process without a copy of the initial form. He said he did not mail the application in February. His friend, MR, told me that he filled three applications out with the Claimant. He mailed the first application to Service Canada, by regular mail, in February 2020. The Claimant said he understood if the Tribunal could not start his pension in February. But he thinks his payments should have started sooner, in March 2020.

[5] The Minister issued a reconsideration decision changing the start date from November to May 2020.<sup>1</sup> The Claimant appealed the Reconsideration Decision to the General Division of the Social Security Tribunal (Tribunal).

## **WHAT I HAVE TO DECIDE**

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<sup>1</sup> GD2-8

[6] In order to determine whether the Minister correctly decided the start date of the retirement pension for a person who is under 65, there are three possibilities for when payment of their retirement pension starts. The CPP says the pension is payable starting with the latest of:

- the month the applicant reached age 60;
- the month after the application was received, and
- the month the applicant chose in their application.<sup>2</sup>

[7] In the Claimant's case, the relevant dates are:

- the month he reached age 60 was February 2020;
- the month after the application was received was March 2020 or May 2020, depending on whether I accept the Claimant's argument or the Minister's;
- the month the Claimant chose in his application was as soon as he would qualify.<sup>3</sup>

[8] The Minister submits that the Claimant has received the maximum period of retroactive payment for his pension allowed under the CPP legislation. His application was received in April 2020, and his payments started in May 2020.

[9] The Claimant says the start date for his pension should be March 2020, the month after the Minister received his February 2020 application. He wants retroactive payments for March and April 2020.

## **THE REASONS FOR MY DECISION**

[10] The Claimant and MR gave testimony at the hearing. They were straightforward and sincere. I found them both to be credible. The Claimant is saying that he thinks his first application was lost in the mail, although it is not anyone's fault.<sup>4</sup>

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<sup>2</sup> See Section 67(3.1)(a)(b) and (d) of the Canada Pension Plan (CPP)

<sup>3</sup> GD2-20

[11] The law does not allow me to make a decision about what happened to the Claimant's February 2020 application as I only have jurisdiction over what was decided in the reconsideration rendered by the Minister.<sup>5</sup>

[12] The issue of a lost application falls under administrative error.<sup>6</sup> The Federal Court has said that the Tribunal does not have the authority to decide allegations of administrative error.<sup>7</sup> Only the Minister and the Federal Court can review administrative errors. For this reason, the Claimant will need to address that issue directly with the Minister. If the Claimant is not happy with the Minister's written decision, he can apply to the Federal Court for judicial review.

[13] I can only decide if the Minister has made an error in the starting date for the retirement pension. The Minister has not made an error in law. His application was received in April 2020, and his payments started in May 2020.<sup>8</sup>

[14] Because the Claimant has received the maximum allowed period of retroactive payment for his pension, he cannot start payment for his retirement pension before May 2020.

## **CONCLUSION**

[15] The appeal is dismissed.

Kelly Temkin  
Member, General Division – Income Security Section

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<sup>4</sup> GD1-1

<sup>5</sup> Section 81 & 82 of the CPP

<sup>6</sup> *Jones v. Canada (Attorney General)*, 2010 FC 740 at paragraph 46, it reads: "In the jurisprudence, the type of errors that entails the application of subsection 66(4) of the CPP include for example misplacing or losing an application (*Canada (A. G.) v. Vinet-Proulx*, 2007 FC 99, 308 F.T.R. 134 at para. 15")

<sup>7</sup> *MEI v. Pincombe* (October 21, 1994), CP 3291 (PAB), Section 66(4) of the CPP.

<sup>8</sup> See Section 67(3.1)(a)(b) and (d) of the Canada Pension Plan (CPP)