



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *LB v Minister of Employment and Social Development*, 2021 SST 774

Tribunal File Number: GP-21-632

BETWEEN:

L. B.

Claimant

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Patrick O'Neil

DATE OF DECISION: August 10, 2021

DECISION

[1] The Claimant's appeal is dismissed as it has no reasonable chance of success.

OVERVIEW

[2] The Minister received the Claimant's application for a Canada Pension Plan (CPP) Survivor's Pension on June 15, 2020¹. The Minister approved her application on December 21, 2020². The Minister determined she was entitled to a combined monthly CPP survivor/retirement pension benefit of \$790.25, effective January 2021.

[3] The Claimant appealed the decision to the Social Security Tribunal (Tribunal) on March 18, 2021³. She appealed the amount the Minister determined she was entitled to receive. She submitted an error was made when her CPP retirement pension was calculated.

[4] This appeal involves the factors the Minister must consider when calculating the amount of combined CPP survivor/retirement pension payable to an applicant.

[5] I must summarily dismiss the Claimant's appeal if satisfied it has no reasonable chance of success⁴. I have decided her appeal has no reasonable chance of success for the reasons set out below.

ISSUE

[6] Does the Claimant's appeal have any reasonable chance of success?

ANALYSIS

The amount of the combined CPP survivor/retirement pension payable to the Claimant was correctly calculated.

[7] The Claimant was the "survivor", as that term is defined in the CPP, of M. B., her husband, at the time of his death on June 1, 2020. She was 72 years old at M. B.'s death. She has been in

¹ GD2 pages 4-8

² GD2 pages 13-15

³ GD1 page 1-10

⁴ Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act)

receipt of a CPP retirement pension since January 2013. The Minister determined she met the eligibility requirements for the CPP survivor's pension at the time of M. B.'s death.

[8] Once a person meets the eligibility requirements for the CPP survivor's pension, the CPP then sets out the rules for calculating the amount of the combined CPP survivor/retirement pension payable. The amount is determined based on the formula set out in the CPP. The Minister calculated the Claimant's combined survivor/retirement pension entitlement in accordance with the formula set out in the CPP for an applicant who had reached 65 years of age, was born after December 31, 1932, and was in receipt of a retirement pension that began after December 31, 1997⁵.

[9] The Claimant is a "survivor" who has reached 65 years of age. She was born after December 31, 1932. She has been in receipt of a retirement pension that began after December 31, 1997. Accordingly, I find the Minister calculated her combined survivor/retirement pension entitlement in accordance with the required CPP formula.

[10] I gave the Claimant the requisite notice in writing of my Intention to Summarily Dismiss her appeal⁶. I allowed her a reasonable time to make submissions. She reiterated the same submission that she made in her Notice of Appeal, namely, that an error was made when her CPP retirement pension was calculated⁷.

[11] The Claimant has been in receipt of a CPP retirement pension since January 2013. An Order of the Federal Court dated November 14, 2018⁸, regarding allegations made by the Claimant as to alleged errors in the calculation of her CPP retirement pension in 2012, confirmed that *all matters pertaining to the Claimant's pension have been finally decided*. As I am bound by decisions of the Federal Court, I cannot decide otherwise.

[12] The Tribunal is created by legislation and, as such, I only have the powers granted to it by its governing statute. I am required to interpret and apply the provisions set out in the CPP. I am bound by decisions of the Federal Court. I cannot use the principles of equity or consider

⁵ Section 58(2)(c) CPP

⁶ Section 22 of the *Social Security Tribunal Regulations* (Regulations)

⁷ GD6 pages 2-13 @ pages 3-4

⁸ *Bartlett v. Attorney General of Canada* Docket: 18-T-64 (GD6 pages 11-12)

extenuating circumstances such as financial hardship to grant a greater combined CPP survivor/retirement pension than permitted by the CPP.

[13] As I have found that the Claimant's combined survivor/retirement pension entitlement was calculated by the Minister in accordance with the required CPP formula, I find her appeal has no reasonable chance of success.

CONCLUSION

[14] The appeal is summarily dismissed.

Patrick O'Neil
Member, General Division - Income Security