



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *JL v Minister of Employment and Social Development*, 2021 SST 834

Tribunal File Number: GP-21-2184

BETWEEN:

J. L.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security

DECISION BY: Jackie Laidlaw

DATE OF DECISION: November 30, 2021

REASONS AND DECISION

INTRODUCTION

[1] The Respondent denied the Appellant's application for retirement benefits at the initial level and on denied the application at the reconsideration level. The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on October 19, 2021.

ISSUE

[2] The Tribunal must decide whether the appeal was brought in time.

THE LAW

[3] Under subsection 52(2) of the *Department of Employment and Social Development Act* (DESD Act), in no case may an appeal be brought to the General Division of the Tribunal more than one year after the day on which the Respondent's reconsideration decision was communicated to the Appellant.

APPELLANT'S SUBMISSIONS/EVIDENCE

[4] The Appellant applied for a retirement benefit, which was denied upon reconsideration on March 27, 2019 because he was not eligible. He was not yet 60 years of age.

[5] On the October 19, 2021 the Appellant appealed the reconsideration decision of the retirement benefit. In the notice of appeal, he notes receiving the decision on March 24, 2021.

[6] A letter dated March 24, 2021 was attached to the notice of appeal. The letter, from the Tribunal, was a response to correspondence from the Appellant received March 18, 2021. The letter from the Tribunal indicates there is no active appeal under the Appellant's name.

[7] On September 13, 2021 the Canada Pension Plan denied upon reconsideration the Appellants application for a surviving child's benefit.

[8] On November 18, 2021 the Appellant submitted a CPP statement of his contributions.

ANALYSIS

[9] The Appellant indicated he received the reconsideration decision letter on March 24, 2021, however, the Tribunal finds he is referring to the letter of March 24, 2021 which is not a reconsideration decision of the retirement benefit.

[10] The Tribunal acknowledges that there is a reconsideration decision letter before the notice of appeal, dated September 13, 2021. This is a reconsideration of a different benefit, the surviving child benefit. The notice of appeal is clearly for the retirement benefit. As well, given the subsequent submission of his CPP contributions, the Tribunal accepts the Appellant is appealing the denial of the retirement benefit.

[11] It is unlikely the Appellant received the reconsideration decision letter two years after it was issued. Upon review of the file, it is clear the Appellant wishes a resolution of this issue. It is unlikely he would wait two years for a reconsideration decision without having some contact with the Minister.

[12] The Tribunal finds that the Appellant brought the appeal to the General Division of the Tribunal more than one year after the decision was communicated to the Appellant. The Tribunal must apply subsection 52(2) of the DESD Act which clearly states that in no case may an appeal be brought more than one year after the reconsideration decision was communicated to the Appellant.

CONCLUSION

[13] The appeal to the General Division of the Tribunal was not brought in time and therefore will not proceed.

Jackie Laidlaw
Member, General Division – Income Security