



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *MM v Minister of Employment and Social Development and The Executor for the Estate of LM*, 2021 SST 879

Tribunal File Number: GP-21-602

BETWEEN:

M. M.

Appellant

and

Minister of Employment and Social Development

Respondent

and

The Executor for the Estate of L. M.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Tyler Moore

DATE OF DECISION: November 4, 2021

REASONS AND DECISION

OVERVIEW

[1] The Appellant applied for a Canada Pension Plan (CPP) death benefit. The Respondent denied the application initially and upon reconsideration. The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal) on March 15, 2021.

[2] This appeal involves whether or not the Appellant is eligible for the CPP death benefit.

[3] Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act) states that the General Division must summarily dismiss an appeal if satisfied that it has no reasonable chance of success (*Miter v. Canada (A.G.)*, 2017 FC 262).

[4] I have decided that this appeal has no reasonable chance of success for the reasons set out below.

EVIDENCE

[5] The Contributor passed away on September 13, 2018. He was the Appellant's brother.

[6] The Executor of the Contributor's estate applied for a CPP death benefit on November 5, 2018. The Respondent granted the application, and a CPP death benefit was paid to that individual.

[7] The Appellant applied for a CPP death benefit on February 17, 2020.

SUBMISSIONS

[8] The Appellant was given notice in writing of the intent to summarily dismiss the appeal and was allowed a reasonable period of time to make submissions as required by Section 22 of the *Social Security Tribunal Regulations* (Regulations).

[9] The Appellant submitted that:

- a) He organized and paid for all of the Contributor's medical expenses while he was ill, and his funeral expenses when he passed away. He is also the Contributor's brother. Nobody

from Canada, including the Contributor's sons, attended the Contributor's funeral in Bosnia.

[10] The Respondent submitted that:

- a) The death benefit was paid to the estate of the Contributor in accordance with Section 71 of the CPP. It cannot be paid twice.

ANALYSIS

[11] The Tribunal is created by legislation and, as such, it has only the powers granted to it by its governing statute. As a Tribunal member, I am required to interpret and apply the provisions as they are set out in the CPP.

[12] I find that the Appellant is not entitled to a CPP death benefit. Except in certain circumstances, a death benefit is payable to the estate of a contributor. Exceptions to this would occur in cases where there is no estate, or the estate has not applied for a death benefit within the prescribed time following a contributor's death.¹ In this case, the Estate of the Contributor applied for a death benefit within the prescribed time. The Respondent paid the death benefit accordingly. When a payment has already been made pursuant to Section 71 of the CPP, the Respondent is not liable to make that payment to any subsequent applicant.²

[13] Accordingly, I find that the appeal has no reasonable chance of success.

CONCLUSION

[14] The appeal is summarily dismissed.

Tyler Moore
Member, General Division - Income Security

¹ Section 71 of the CPP.

² Subsection 71(3) of the CPP.