



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *IS v Minister of Employment and Social Development*, 2020 SST 1254

Tribunal File Number: GP-20-596

BETWEEN:

I. S.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Carol Wilton

Videoconference hearing on: November 9, 2020

Date of decision: December 17, 2020

DECISION

[1] The Minister was entitled to terminate payment of the Disabled Contributor's Child Benefit (DCCB)¹ to the Claimant for the period from August 2017 to January 2018.

OVERVIEW

[2] The Claimant is appealing the Minister's decision to terminate payment of the DCCB with respect to her son for the period August 2017 to January 2018.

[3] The Claimant is the ex-wife of R. S. Together they had a son born in X.² After they divorced, the Claimant had custody of their son.³

[4] The Minister granted R. S. a CPP disability pension with payment beginning in February 2017.⁴ The Claimant's application for the DCCB on behalf of their son was also approved with an effective date of February 2017.⁵

[5] In October 2018, the Minister notified R. S. that, based on his ability to work, he was no longer considered disabled as of July 2017. The Minister therefore terminated his CPP disability benefits as of the end of July 2017.⁶ R. S. did not appeal this decision.

[6] In October 2018, the Minister also informed the Claimant that she was not eligible for the DCCB from August 2017 to January 2018. In January 2018, the Minister had stopped payment of the DCCB to the Claimant because the child turned 18. The Minister explained that because R. S. was no longer considered disabled as of July 2017, the Claimant was no longer entitled to the DCCB on behalf of their son after that date. The Minister also notified her that she owed the CPP the amount of \$1,449.74.⁷ This was for DCCB payments from August 2017 to January 2018.

¹ See sections 74-76 of the *Canada Pension Plan Act* (CPP)

² GD2-46

³ GD2-86. They were divorced by November 2016: GD2-54

⁴ GD2-47

⁵ GD5-3

⁶ GD2-39, 45.

⁷ GD2-35

[7] The Minister confirmed this determination on reconsideration. The Claimant appealed to the Social Security Tribunal.

ISSUE

[8] Was the Minister entitled to terminate payment of the Claimant's DCCB for the period from August 2017 to January 2018?

ANALYSIS

[9] The DCCB stops being payable for the month in which the contributor's disability benefit ceases to be payable.⁸

[10] A person who has received a benefit payment of a greater amount than they are entitled to must return the excess amount.⁹

The Claimant is not entitled to the DCCB for the period from August 2017 to January 2018

[11] The Minister submitted that the Claimant incurred an overpayment because she was receiving the DCCB during a period in which R. S. was not eligible for CPP disability benefits.

[12] The Claimant does not dispute that R. S. ceased to be disabled in July 2017.

[13] The Claimant's position is that she contacted Service Canada twice after receiving notification from them of the overpayment. She was told that there was no record of her file.¹⁰

[14] I do not have the authority to change the amount of the overpayment. I must follow the provisions of the CPP. I cannot make my decision based on considerations of compassion or special circumstances.¹¹

⁸ Paragraph 76(1)(c) of the CPP

⁹ Section 66 of the CPP

¹⁰ GD2-24

¹¹ *Langlois v. Canada (A.G.)*, 2018 FC 1108

[15] If the Claimant wishes to assert that repaying the overpayment would cause undue hardship, or is the result of erroneous advice or administrative error on the part of the Minister, I do not have the power to address these matters. However, the Minister does. The Minister has the power to “remit” or forgive all or part of the benefit payment.¹² The Claimant has the option of contacting the Minister to discuss whether it is possible to resolve the issue.

[16] I find that the Claimant is not entitled to the DCCB for the period from August 2017 to January 2018. The Minister had the authority to terminate payment of the benefit for that period.

CONCLUSION

[17] The appeal is dismissed.

Carol Wilton
Member, General Division - Income Security

¹² Paragraphs 66(3) (c) and (d) of the CPP

