



Citation: *TF v Minister of Employment and Social Development and LG*, 2022 SST 188

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

**Decision**

**Appellant:** T. F.

**Respondent:** Minister of Employment and Social Development

**Added Party:** L. G.

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated August 12, 2020 (issued by  
Service Canada)

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**Tribunal member:** Pierre Vanderhout

**Type of hearing:** Teleconference

**Hearing date:** February 17, 2022

**Hearing participants:** Appellant  
Added Party

**Decision date:** February 21, 2022

**File number:** GP-20-1397

## Decision

[1] The appeal is dismissed.

[2] The Appellant, T. F., isn't eligible for the Canada Pension Plan ("CPP") death benefit. This finding also applies to the Appellant in her role as Estate Administrator for the late J. G. (the "Contributor"). This decision explains why I am dismissing the appeal.

## Overview

[3] The Appellant lives in Calgary. She was in a common-law relationship with the Contributor when he died on April 29, 2016. However, his daughter, L. G. (the Added Party), arranged and paid for his funeral. The Added Party applied for the Contributor's CPP death benefit in May 2016 and received it after more than 60 days had passed since the Contributor's death.

[4] The Appellant did not apply for the CPP death benefit until August 2019. The Minister denied her application. The Minister said it had already paid the Contributor's CPP death benefit to someone else. However, in July 2017, the Appellant applied to be the Estate Administrator for the Contributor. The court approved her application in February 2018. The Added Party did not oppose the application.

[5] The Appellant says there is no time limit for her to apply for the CPP death benefit. She says the Minister should not have paid the CPP death benefit to the Added Party because the Added Party was not the Estate Administrator. She suggests that the Added Party misrepresented her authority to get the CPP death benefit. She adds that the Added Party was associated with a massive fraud against the Contributor. She also says that the Minister was aware of the Added Party's frauds.

[6] The Appellant further says the Added Party should receive an administrative monetary penalty (with interest) or be charged with an offence. Finally, the Appellant says the Estate should not pay tax on the CPP death benefit, because the Estate never received the CPP death benefit.

[7] The Minister says the Appellant did not receive the CPP death benefit because it had already been paid to another eligible applicant. A CPP death benefit cannot be paid to more than one applicant. The Minister said the Appellant did not apply within 60 days of the Contributor's death, so the Minister could pay it out at that time to another applicant who met the statutory requirements.

### **What the Appellant must prove**

[8] For the Appellant to succeed, she must prove that the Minister was not authorized to pay the CPP death benefit to the Added Party. In the alternative, she must prove that the Contributor's Estate applied within 60 days of the Contributor's death.

### **Reasons for my decision**

[9] For the reasons that follow, I find that the Appellant was not entitled to the CPP death benefit.

[10] The Minister can only pay the CPP death benefit to one applicant. After paying the benefit to an eligible applicant, the Minister is not liable to make that payment to any subsequent applicant.<sup>1</sup> I will now decide whether the Added Party was eligible to receive the CPP death benefit with respect to the Contributor.

### **Was the Added Party eligible to receive the CPP death benefit?**

[11] The Contributor died on April 29, 2016.<sup>2</sup> The Added Party applied for the CPP death benefit in May or June of 2016.<sup>3</sup> The Added Party had arranged and paid for the Contributor's funeral expenses of \$3,176.28.<sup>4</sup> This exceeded the CPP death benefit amount.<sup>5</sup>

[12] I find that the Added Party was eligible to receive the CPP death benefit.

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<sup>1</sup> See s. 71(3) of the *Canada Pension Plan*.

<sup>2</sup> GD2-16

<sup>3</sup> At the hearing, the Added Party said she applied in May. The Minister previously said it received an application from an eligible applicant on June 3, 2016: see GD3-5.

<sup>4</sup> GD8-2 and GD8-3

<sup>5</sup> GD1-12

[13] The Minister may pay the CPP benefit to an individual who has paid or is responsible for the deceased contributor's funeral expenses. I am satisfied that the Added Party met this requirement.<sup>6</sup> This payment can be made if the estate of the deceased contributor does not apply for the CPP death benefit within 60 days of the contributor's death.<sup>7</sup> I will now consider the timing of the estate's application.

### **Did the Estate apply within 60 days of the Contributor's death?**

[14] I find that the Estate did not apply for the CPP death benefit within 60 days of the Contributor's death.

[15] The Minister received the Appellant's application for the CPP death benefit on August 22, 2019.<sup>8</sup> She appeared to apply in both her personal capacity and as the Contributor's Estate Administrator.<sup>9</sup> I see no evidence that she applied before then. She said she inquired about the CPP death benefit in the summer of 2016. She said a Minister's employee told her that somebody else had already received the CPP death benefit. As a result, she did not apply at that time. In her capacity as Estate Administrator, she received a tax receipt in the summer of 2019 for the CPP death benefit.<sup>10</sup> She then decided to apply for the CPP death benefit. She applied because she didn't think the Estate should have to pay tax on something it didn't receive.

[16] The evidence confirms that the Estate did not apply within 60 days of the Contributor's death. I will now look at the Appellant's submissions that the above analysis does not directly address.

### **– What about the Appellant's allegations of fraud and lack of authority?**

[17] The Appellant alleged fraudulent and improper conduct by the Added Party. If true, those allegations are very troublesome. If false, those allegations would reflect just

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<sup>6</sup> These facts can be distinguished from those in *R.S. v. Minister of Employment and Social Development and Z.T.*, 2019 SST 1043. For example, in *R.S.*, the added party did not pay for the funeral expenses.

<sup>7</sup> Ss. 71(1) and (2) of the *Canada Pension Plan* and s. 64(1)(a) of the *Canada Pension Plan Regulations*.

<sup>8</sup> GD2-4

<sup>9</sup> GD2-5 shows that she applied in both these roles.

<sup>10</sup> GD1-12

as poorly on the Appellant. Fraud is a very serious allegation. However, in the circumstances, the allegations do not affect the CPP death benefit.

[18] After the Contributor died, the Added Party thought she would be taking care of his estate.<sup>11</sup> In any case, when the Added Party applied for and received the CPP death benefit, she did not need to do so on behalf of the Contributor's estate. Anyone who had paid the Contributor's funeral expenses would have been eligible.<sup>12</sup> I see no fraud with respect to those expenses. Nobody suggests that the Added Party did not incur them.

[19] The Appellant also suggested that the Minister did not have the authority to pay the Added Party. I do not see any evidence that the Minister acted wrongly when it received and approved the Added Party's application. This is important because the Minister cannot take an irrelevant factor into account, ignore a relevant factor, act in a discriminatory manner, act in bad faith, or act for an improper purpose or motive.<sup>13</sup>

[20] The evidence shows that the funeral home submitted a CPP death benefit application, with supporting documents, to the Minister for the Added Party. The evidence also shows that the Added Party was responsible for the Contributor's funeral costs and promptly paid them less than a month after the Contributor's death.<sup>14</sup> The funeral payment took place before the Minister received the Added Party's application. The legislation is very clear that funeral expenses can trigger payment of the CPP death benefit to someone other than the deceased's estate.<sup>15</sup> In turn, the Minister submitted that it received the necessary documents and waited for the 60-day period to expire before releasing the benefit to the Added Party.<sup>16</sup> Given these events, I see no wrongful conduct by the Minister in granting the CPP death benefit to the Added Party.

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<sup>11</sup> GD8-2 and GD11-2

<sup>12</sup> See s. 64(1)(a) of the *Canada Pension Plan Regulations*.

<sup>13</sup> See *Canada (Attorney General) v. Uppal*, 2008 FCA 388, and *Canada (Attorney General) v. Purcell*, [1996] 1 FCR 644.

<sup>14</sup> GD8-2, GD8-3, GD8-7, and GD11-2

<sup>15</sup> See s. 64(1)(a) of the *Canada Pension Plan Regulations*.

<sup>16</sup> GD3-5

– **What about the tax slip directed to the Estate?**

[21] The Appellant says the Estate should not pay tax on the CPP death benefit, because the Estate never received that benefit. This issue arises because the Minister seems to have caused the issuance of a Canada Revenue Agency (“CRA”) T4A(P) slip in 2019. This slip was for the CPP death benefit paid to the Added Party in 2016.<sup>17</sup>

[22] It is unclear why this tax slip was issued to the Estate in 2019. The Added Party said she received a tax slip for the CPP death benefit in 2016. She said it formed part of her tax return for the 2016 tax year. Her accountant prepared that return.<sup>18</sup>

[23] In principle, the Appellant’s submission makes sense. The Added Party should pay tax on the death benefit. However, the Tribunal does not have the authority to make decisions about taxable income. The Appellant must raise that issue with the CRA. The Tribunal cannot help her. In any event, the Appellant said the Estate was not going to pay tax on the CPP death benefit received by the Added Party.<sup>19</sup>

– **The Appellant says there is no time limit to apply for the CPP death benefit**

[24] I agree. There is no fixed deadline to apply for the CPP death benefit.<sup>20</sup>

[25] However, as noted above, the Minister can only pay the CPP death benefit once with respect to each contributor. Once the Minister has paid it, subsequent applicants cannot receive the benefit.<sup>21</sup> This rewards those who act promptly during a difficult time. While it may seem unfair, the legislation allows a person to receive the CPP death benefit if they apply for it after paying a contributor’s funeral expenses. That person does not have to be acting for the estate. But a contributor’s estate has 60 days to apply for the death benefit as well. Even if someone else applies first, the estate still has priority if it applies within that 60-day period.<sup>22</sup>

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<sup>17</sup> GD1-12

<sup>18</sup> GD8-2 and GD11-2

<sup>19</sup> GD2-11

<sup>20</sup> See s. 71(1) of the *Canada Pension Plan*.

<sup>21</sup> See s. 71(3) of the *Canada Pension Plan*.

<sup>22</sup> See ss. 71(2) of the *Canada Pension Plan* and s. 64(1)(a) of the *Canada Pension Plan Regulations*.

[26] Had the Added Party not applied for the CPP death benefit in respect of the funeral expenses, the Estate (or the Appellant personally) could still have been entitled to that benefit.

– **Other issues between the parties**

[27] I will comment briefly on the difficult underlying circumstances of this appeal.

[28] I saw considerable conflict between the Appellant and the Added Party. This conflict appears to predate the Contributor's death. I even saw a reference to a lawsuit.<sup>23</sup>

[29] I must stress that nothing in this decision endorses or criticizes any party. The Tribunal's jurisdiction is limited to the narrow issue of whether the CPP death benefit is payable to the Appellant. This authority is derived from statute and the August 2020 reconsideration decision.<sup>24</sup> I decided the issue by looking at the applicable legislation, as well as certain facts that are not reasonably in dispute. I cannot resolve any other issues between the parties. Similarly, I cannot levy penalties or launch a prosecution against any person or entity.

## **Conclusion**

[30] I find that the Appellant (either personally or on behalf of the Contributor's Estate) isn't eligible for the CPP death benefit. She didn't apply for the benefit within 60 days of the Contributor's death, at which time the Minister paid the benefit to another eligible applicant.

[31] This means the appeal is dismissed.

Pierre Vanderhout  
Member, General Division – Income Security Section

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<sup>23</sup> GD2-7

<sup>24</sup> GD2-12. See also *R. v. Conway*, 2010 SCC 22.