



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *RS v Minister of Employment and Social Development*, 2021 SST 964

Tribunal File Number: GP-21-465

BETWEEN:

**R. S.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security Section**

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DECISION BY: Antoinette Cardillo

DATE OF DECISION: August 10, 2021

## REASONS AND DECISION

### OVERVIEW

[1] The Appellant applied for a Canada Pension survivor's pension. The Respondent denied the application initially and upon reconsideration. The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal) on February 16, 2021.

[2] This appeal involves the Appellant's eligibility to the survivor's pension.

[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] The Tribunal has decided that this appeal has no reasonable chance of success for the reasons set out below.

### EVIDENCE

[5] Based on the evidence<sup>1</sup>, the deceased contributor passed away on October 28, 2019. The Minister received the Appellant's survivor's application on December 3, 2019. The Appellant indicated on the application that she was not living together with the deceased contributor at the time of his death and they were no longer married<sup>2</sup>. The Appellant and the deceased contributor were divorced in 2007<sup>3</sup>.

### SUBMISSIONS

[6] 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).

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<sup>1</sup> GD2-17

<sup>2</sup> GD2-5

<sup>3</sup> GD2-82

[7] The Appellant submitted that her divorce in 2007 was based on corruption and she contests its validity<sup>4</sup>.

[8] The Respondent submitted that in order to qualify for a survivor`s pension, the Appellant must meet the definition of survivor pursuant to subsection 42(1) of the Canada Pension Plan (CPP). The Appellant and the contributor were divorced before the contributor passed away. Accordingly, the Appellant does not meet the definition of survivor in subsection 42(1) of the CPP.

## **ANALYSIS**

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

[10] The Tribunal finds that the Appellant is not eligible to the survivor`s pension.

[11] In order to qualify for the survivor`s pension, the Appellant must meet the definition of survivor pursuant to subsection 42(1) of the CPP.

[12] In the CPP, survivor of a deceased contributor is defined as :

(a) a person who was the common-law partner of the contributor at the time of the contributor`s death.

(b) if there is no person described in paragraph (a), a person who was legally married to the contributor at the time of the contributor`s death.

[13] The Appellant does not meet the requirements set out in the CPP to be a survivor of the deceased contributor because she was divorced from the deceased contributor since 2007.

[14] Accordingly, the Tribunal finds that the appeal has no reasonable chance of success.

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<sup>4</sup> GD01 and GD08

**CONCLUSION**

[15] The appeal is summarily dismissed.

Antoinette Cardillo  
Member, General Division - Income Security