



Citation: *BD v Minister of Employment and Social Development*, 2022 SST 641

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

Decision

Appellant: B. D.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated January 5, 2022 (issued by
Service Canada)

Tribunal member: Anne S. Clark

Decision date: June 17, 2022

File number: GP-22-404

Decision

[1] The appeal is summarily dismissed. This means there won't be a hearing, and the appeal file is closed.

[2] The Appellant, B. D., isn't entitled to a death benefit under the *Canada Pension Plan* (CPP). This decision explains why I am summarily dismissing the appeal.

Overview

[3] The Appellant's spouse, M. D., died on December 5, 2020. The Appellant applied for a CPP death benefit as her surviving spouse.¹

[4] The Minister of Employment and Social Development (Minister) denied the application.

[5] The Minister says the Appellant can't receive a death benefit because his spouse didn't make enough contributions to the CPP.²

[6] The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

[7] The Tribunal has to summarily dismiss an appeal if it is satisfied that the appeal has no reasonable chance of success.³ When an appellant's appeal has no reasonable chance of success, it means the appellant doesn't have an argument that could possibly succeed, no matter what evidence or arguments they might present at a hearing.⁴ When the Tribunal summarily dismisses an appeal, there won't be a hearing, and the appeal file is closed.

[8] I sent the Appellant a letter explaining that I planned to summarily dismiss his appeal. I gave him a reasonable amount of time (30 days) to tell me in writing why he

¹ See the application beginning at GD2-80.

² See the Minister's reconsideration decision beginning at GD2-46.

³ See section 53(1) of the *Department of Employment and Social Development Act*; and *Miter v Canada (Attorney General)*, 2017 FC 262.

⁴ See *The Estate of JB v Minister of Employment and Social Development*, 2018 SST 564 at para 23.

thinks his appeal should not be summarily dismissed.⁵ It has been more than a month since that deadline passed, and the Appellant hasn't replied to my letter or sent in submissions (arguments).

What I have to decide

[9] I have to decide whether the Appellant's appeal has a reasonable chance of success.

Reasons for my decision

[10] The Appellant's appeal has no reasonable chance of success. His spouse didn't make enough contributions to the CPP for him to receive a death benefit.

[11] The Appellant's spouse needed to have made CPP contributions in ten years. But she made CPP contributions in only four years.

Contributory period started February 1992 and ended December 2020

[12] The contributory period for the Appellant's spouse started in February 1992, the month after she turned 18 years old. It ended in December 2020, the month she died.

[13] A contributory period is the time during which a contributor can contribute to the CPP. It starts at age 18 (or January 1, 1966, whichever is later) and ends when the contributor turns 70, starts receiving their CPP retirement pension, or dies, whichever happens first.⁶

[14] The law says that a death benefit is payable when a deceased contributor (in this case, the Appellant's spouse) "has made base contributions for not less than the minimum qualifying period."⁷ "Base contributions" are simply CPP contributions.⁸ The

⁵ Section 22(1) of the *Social Security Tribunal Regulations* says that, before summarily dismissing an appeal, the Tribunal has to give an appellant notice in writing and a reasonable amount of time to make submissions. See GD0-1.

⁶ See section 49(a) of the *Canada Pension Plan*. January 1, 1966, is the date the Canada Pension Plan started.

⁷ See section 44(1)(c) of the *Canada Pension Plan*.

⁸ See section 2(1) of the *Canada Pension Plan*.

“minimum qualifying period” is one-third of the years in the contributor’s contributory period (with a minimum of three years), or ten years.⁹

[15] To determine how many years of CPP contributions the Appellant’s spouse had to have made, I first have to determine how many years are in her contributory period.

[16] The Appellant’s spouse turned 18 in January 1992. So, her contributory period started the following month – February 1992.

[17] The law says that the contributory period ends on the earliest of these three dates:¹⁰

- the month before the contributor turns 70
- the month the contributor dies
- the month before the contributor started receiving a CPP retirement pension

[18] The earliest date the Appellant’s spouse’s contributory period could end is December 2020. That is the month she died.

The Appellant’s spouse had to have made CPP contributions in ten years

[19] The Appellant’s spouse had to have made CPP contributions in ten years.

[20] The contributory period for the Appellant’s spouse is 28 years. It includes February 1992 to December 2020.

[21] As I explained above, the Appellant’s spouse had to make CPP contributions in one third of the years in her contributory period.¹¹ Twenty-eight years divided by one third equals 9.33 years. This can’t be rounded down to 9 years because 9 is less than

⁹ See section 44(3) of the *Canada Pension Plan*.

¹⁰ See section 49(b) of the *Canada Pension Plan*.

¹¹ See section 44(3) of the *Canada Pension Plan*.

one third of 28. It has to be rounded up to 10.¹² As a result, the Appellant's spouse had to have made CPP contributions in 10 years.

The Appellant's spouse made CPP contributions in four years

[22] The Appellant's spouse made CPP contributions in only four years: 1998, 1999, 2001 and 2002.¹³ Her contributions in 1996, 1997, 2011, and 2012 don't count because they were too low.

Conclusion

[23] I have to follow the rules set out in the *Canada Pension Plan* that determine whether an appellant qualifies for a CPP death benefit.

[24] The Appellant's spouse needed to have made CPP contributions in ten years. But she made CPP contributions in only four years. As a result, the Appellant isn't entitled to a CPP death benefit.

[25] This means the appeal has no reasonable chance of success.

[26] The appeal is summarily dismissed.

Anne S. Clark
Member, General Division – Income Security Section

¹² In *Canada (Minister of Human Resources Development) v Skoric*, [2000] 3 FCR 265 (FCA), the Federal Court of Appeal agreed that a part of a year can't be rounded down when calculating the minimum qualifying period.

¹³ The Appellant's spouse's contributions are at GD2-46.