



Citation: *MF v Minister of Employment and Social Development*, 2022 SST 838

Social Security Tribunal of Canada General Division – Income Security Section

Decision

Appellant: M. F.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated August 4, 2021 (issued by
Service Canada)

Tribunal member: George Tsakalis

Type of hearing: On-the-record

Decision date: August 11, 2022

File number: GP-21-2402

Decision

[1] The appeal is dismissed.

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

Overview

[3] The Appellant's father (deceased contributor) died in November 2015. The Appellant applied for a CPP death benefit.¹

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

[5] The Minister says the Appellant cannot receive a death benefit because the deceased contributor did not make enough CPP contributions.²

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

Matters I have to consider first

[7] I invited the Appellant to attend a telephone case conference on May 5, 2002 because I had concerns about her appeal. The deceased contributor did not make enough CPP contributions for her to qualify for a CPP death benefit. I advised the Appellant in writing that I was inclined to dismiss her appeal, but I would give her an opportunity to convince me not to do so.³

[8] The Appellant did not attend the telephone case conference scheduled for May 5, 2022. The Appellant asked for an adjournment of the case conference.⁴ The

¹ See GD2-15-18

² See GD2-5-7

³ See GD4

⁴ See GD6

Appellant advised the Tribunal that she did not have access to a telephone. We asked her if she wished to have a case conference by way of Zoom videoconference.⁵ The Appellant eventually asked me to make a decision on this matter.⁶

[9] I have decided to make an on-the-record decision based on the documents and submissions contained in the file. I have decided to do this because the *Social Security Tribunal Regulations* require me to conduct proceedings as informally and quickly as the circumstances and the considerations of fairness and natural justice permit.⁷ The Appellant requested a decision and I see no gaps in the evidence that require a hearing.

What the Appellant must prove

[10] For the Appellant to succeed, she must prove that the deceased contributor made enough contributions to meet something called the Minimum Qualifying Period (MQP).⁸

Reasons for my decision

The deceased contributor did not make enough CPP contributions

[11] The Appellant is not entitled to a CPP death benefit because the deceased contributor did not make sufficient CPP contributions.

[12] In order to meet the MQP for a death benefit, the deceased contributor must have made valid CPP contributions for 7 years. This is because the deceased contributor had a 20-year contributory period.⁹

[13] The CPP sets out rules for calculating the beginning and end of a contributory period.¹⁰

⁵ See GD8

⁶ See GD12

⁷ See paragraph 3(1)(a) of the *Social Security Tribunal Regulations*

⁸ See paragraph 44(1)(c) of the CPP

⁹ See subsection 44(3) of the CPP

¹⁰ See section 49 of the CPP

[14] The deceased contributor's contributory period began in January 1966. This is because the deceased contributor was born in 1920, and his contributory period would start on the later of the following two dates: January 1966 or when he turned 18.¹¹

[15] The deceased contributor's contributory period ended in June 1985, the month he turned 65.¹²

[16] The deceased contributor has a 20-year contributory period from January 1966 to June 1985. Partial years are considered full years when calculating the contributory period.¹³

[17] Since the deceased contributor has a 20-year contributory period, he must have made 7 years of valid CPP contributions in order for the Appellant to be eligible to receive a death benefit. This is because the CPP says that in order to qualify for a death benefit, the deceased contributor must have made valid contributions for at least 1/3 of the number of years included either wholly or partly in his contributory period.¹⁴ The deceased contributor had a 20-year contributory period, 1/3 of that total equals 6.67 years. Where 1/3 of the deceased contributor's contributory period equals part of a year, such as 6.67 years, the number of years to meet the MQP must be rounded up to the nearest whole number, which in this case is 7 years. Whether the part year is more or less than half is irrelevant.¹⁵

[18] However, the records show the deceased contributor did not make 7 years of valid CPP contributions. He only made one year of valid CPP contributions.¹⁶

¹¹ See section 49 of the CPP

¹² See subsection 49(a) of the CPP

¹³ See paragraph 44(3)(a) of the CPP and *Walters v. Canada (Minister of Employment and Immigration)*, [1996] F.C.J. No. 176 (FCA), and *Canada (Minister of Human Resources Development v. Skoric*, [2000] 3 F.C.R. 265 (FCA)

¹⁴ See subsection 44(3) of the CPP

¹⁵ See *Canada (Minister of Human Resources Development) v. Skoric*, [2000] 3 F.C.R. 265 (FCA).

¹⁶ See GD2-8

The Social Security Agreement between Canada and Italy does not help the Appellant

[19] The CPP allows Canada to enter into social security agreements with other countries.¹⁷ These social security agreements can be used to totalize or add up periods of residency or contributions between Canada and another country in order to allow someone to meet a MQP.

[20] The Appellant lived in Italy. Under the Agreement on Social Security between Canada and Italy (the Agreement), if a person contributed to Canada's social security system for 2 years and also contributed to the Italian social security system, the Agreement could be used to totalize and perhaps pay a CPP benefit.

[21] However, the deceased contributor made only 1 year of contributions in Canada, which means the Minister could not use the Agreement to allow the Appellant to possibly qualify for a death benefit.

[22] The Appellant argues the Minister made the wrong decision. This is because the Minister did not use the correct version of the Agreement on Social Security between Canada and Italy. The Appellant says the Minister used an Agreement that has since been terminated.¹⁸

[23] The Tribunal member has reviewed the Agreement between Canada and Italy that is in force. I agree with the Minister that this Agreement does not help the Appellant qualify for a CPP death benefit.

[24] The Agreement allows for totalizing periods in Canada and Italy to allow an Appellant to be eligible for a death benefit. However, the Agreement does not assist the Appellant in becoming eligible for a CPP death benefit. The Minister cannot totalize periods in Canada and Italy in this case because the deceased contributor needed at least two years of CPP contributions, but he only had one year of CPP contributions.¹⁹

¹⁷ See section 107 of the CPP

¹⁸ See GD1-14

¹⁹ See Agreement of Social Security Between Canada and Italy, Article XIII, paragraphs 3 and 7

[25] The Tribunal is created by law. It can only grant such remedies as its enabling statute allows.²⁰ The Tribunal member cannot vary the requirements of the CPP so that the Appellant can receive a death benefit.

Conclusion

[26] I find that the Appellant isn't eligible for a CPP death benefit because the deceased contributor did not make sufficient CPP contributions.

[27] This means the appeal is dismissed.

George Tsakalis
Member, General Division – Income Security Section

²⁰ See *R. v. Conway*, 2010 SCC 22