



Citation: *KM v Minister of Employment and Social Development*, 2022 SST 843

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

# **Decision**

**Appellant:** K. M.

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

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**Decision under appeal:** Minister of Employment and Social Development reconsideration decision dated November 25, 2021 (issued by Service Canada)

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**Tribunal member:** Connie Dyck

**Type of hearing:** Teleconference

**Hearing date:** August 16, 2022

**Hearing participants:** Appellant  
Respondent's representative

**Decision date:** August 18, 2022

**File number:** GP-21-2536

## Decision

[1] The appeal is dismissed.

[2] The Appellant, K. M., isn't eligible to be paid a Canada Pension Plan (CPP) retirement pension before November 2021. This decision explains why I am dismissing the appeal.

## Overview

[3] The Appellant says her CPP retirement pension should start in September 2021. The Minister of Employment and Social Development (Minister) started paying the pension in November 2021.<sup>1</sup>

[4] The Appellant says she filed her application on-line in September 2020. She wants to be paid as of September 2021, the month after she turned 60.<sup>2</sup>

[5] The Minister says no on-line application was submitted. The only application received was the Appellant's paper application that she submitted at the X B.C. Service Canada Centre on October 5, 2021.<sup>3</sup> The retirement pension payments started the next month in November 2021.

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

## What I have to decide

[7] I have to decide if the Appellant is eligible to have her CPP retirement pension paid before November 2021.

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<sup>1</sup> The Minister manages the Canada Pension Plan for the Government of Canada. The Minister operates through Service Canada.

<sup>2</sup> This information is at GD 2-5.

<sup>3</sup> The application is at GD 2-4.

## Reasons for my decision

[8] The Appellant's retirement pension payments can't start before November 2021. I understand why the Appellant is frustrated. But I have to follow the law.

### – The Appellant didn't apply before October 2021

[9] The Appellant says she applied for a CPP retirement pension on-line in September 2020. She recalls when she completed the form, she clicked "submit" and a screen came up acknowledging the form had been submitted. She said she did not take a "screen shot" of the screen.

[10] At the hearing, the Minister's representative explained that a person can access their My Service Canada account to make any changes to their personal information or to search things such as available programs. The Government On-line Record shows that the Appellant did access her account on September 23, 2020, August 27, 2021 and September 30, 2021. But, it shows no application was made or was pending.<sup>4</sup>

[11] The Appellant didn't know there was a problem with her application until October 2021 when she called Service Canada to ask why she hadn't received her pension yet. Service Canada told her to make another application on-line. The Appellant instead went to a Service Canada location and made her application in writing.

[12] She says it is not fair that she is being penalized for two months because the on-line systems did not capture all of her application and she was not advised that there was an issue.

[13] I believe what the Appellant told me about how she tried to apply for a retirement pension in September 2020. But an application isn't made until the Minister receives it in writing.<sup>5</sup> The Minister doesn't have any record that it received an application from the Appellant before October 2021.<sup>6</sup> Even if this was the fault of someone or something at

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<sup>4</sup> This is at GD 3-7.

<sup>5</sup> Section 60(6) of the *Canada Pension Plan* and section 43.1 of the *Canada Pension Plan Regulations* set out this rule.

<sup>6</sup> The Minister said this at GD 4-6.

Service Canada, I have to base my decision on the October 2021 application. There is no evidence of any other application.

[14] If there was an earlier application or a “glitch” in the application process as the Appellant alleges, it’s up to the Minister to decide if the Appellant should be compensated for any benefits she lost because the application was mishandled or didn’t go through.<sup>7</sup> Only the Minister has that power.<sup>8</sup> The Appellant may wish to contact Service Canada to pursue this. The Tribunal doesn’t have any authority over this process.

– **The Appellant’s pension can’t be paid before November 2021**

[15] The only thing I can do is decide when the Appellant applied, and when the law says her pension payments should start.

[16] The *Canada Pension Plan* tells us when a retirement pensions starts. Payments start with the latest of:<sup>9</sup>

- a) the month the applicant turned 60
- b) the month after the Minister received the application
- c) a person applies after they turn 65, up to eleven months before they applied (but no earlier than the month they turned 65)
- d) the month the applicant chose in the application

[17] In the Appellant’s case, item (c) doesn’t apply because she applied before the age of 65. The last of the remaining dates was November 2021, the month after the Minister received her application.

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<sup>7</sup> Section 66(4) of the *Canada Pension Plan* says the Minister can take remedial action if it decides a person was denied a benefit, “as a result of erroneous advice or administrative error in the administration of this Act.”

<sup>8</sup> The Federal Court of Canada said this in *Lee v Canada (Attorney General)*, 2019 FC 1189 at paragraph 23.

<sup>9</sup> This is at Section 67 (3.1) of the *Canada Pension Plan*.

[18] This is why the earliest the Appellant's CPP retirement pension can be paid is November 2021.

## **Conclusion**

[19] I find that the Appellant's CPP retirement pension can't be paid before November 2021.

[20] This means the appeal is dismissed.

Connie Dyck  
Member, General Division – Income Security Section