



Citation: *The Estate of YB v Minister of Employment and Social Development*, 2022 SST 845

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

**Decision**

**Appellant:** The Estate of Y. B.  
**Respondent:** Minister of Employment and Social Development

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated January 27, 2021 (issued  
by Service Canada)

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**Tribunal member:** Anne S. Clark  
**Type of hearing:** Teleconference  
**Hearing date:** July 19, 2022  
**Hearing participant:** Appellant's representative  
  
**Decision date:** August 14, 2022  
**File number:** GP-21-1028

## Decision

[1] The appeal is dismissed.

[2] The Appellant, Estate of Y. B., isn't eligible for *Canada Pension Plan* (CPP) death benefits. This decision explains why I am dismissing the appeal.

## Overview

[3] The Appellant is the Estate of Y. B. who was a contributor to the CPP. She passed away on February 11, 2020. I will refer to Y. B. as the Contributor. Her son, N. B., is the Executor of the Estate and he represents the Appellant.<sup>1</sup>

[4] The Appellant applied for CPP death benefits on February 27, 2020.<sup>2</sup> The Minister denied the application and the Appellant appealed to the Social Security Tribunal's General Division (Tribunal).

[5] The Appellant says the drop-out provisions in the CPP were not applied correctly. If they are all considered, it would reduce the contributory period. That would reduce the Contributor's minimum qualifying period (MQP). That would mean the Appellant is entitled to CPP benefits related to the Contributor's death.

[6] The Minister says the drop-out periods that related to the Contributor's contributory period were applied. The Contributor did not make sufficient contributions to the CPP to meet the contributory requirements. Therefore, the Appellant is not eligible for CPP death benefits.

## What I have to decide

[7] I have to decide if the Contributor made enough CPP contributions to qualify for a CPP death benefit.

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<sup>1</sup> This is confirmed in the Contributor's Will at page GD7-3.

<sup>2</sup> The application is at GD2-5.

## Reasons for my decision

[8] The Appellant is not entitled to CPP benefits related to the Contributor's death because the Contributor did not make enough contributions to qualify for a CPP death benefit.

[9] Here are the reasons for my decision.

### **Contributory period started January 1966 and ended November 1995**

[10] The law says that a CPP death benefit is payable when a deceased contributor (in this case, the Contributor) has made base contributions for not less than the minimum qualifying period (MQP).<sup>3</sup> "Base contributions" are simply CPP contributions.<sup>4</sup> The MQP is one-third of the years in the contributor's contributory period (with a minimum of three years), or ten years.<sup>5</sup>

[11] 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 the month before the contributor turns 70, the month before they start receiving their CPP retirement pension, or the month in which they die, whichever happens first.<sup>6</sup>

[12] To determine how many years of CPP contributions the Contributor had to have made, I first have to determine how many years are in her contributory period.

[13] The Contributor turned 18 in December 1948. So her contributory period started at the later date—on January 1, 1966.

[14] The Contributor's contributory period ended in November 1995:

- The month before the Contributor turned 70 was November 2000.

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<sup>3</sup> See section 44(1)(c) of the *Canada Pension Plan*.

<sup>4</sup> See section 2(1) of the *Canada Pension Plan*.

<sup>5</sup> See section 44(3) of the *Canada Pension Plan*.

<sup>6</sup> See section 49(b) of the *Canada Pension Plan*. January 1, 1966, is the date the Canada Pension Plan started.

- The Contributor died in February 2020.
- The month before the Contributor started receiving a CPP retirement pension was November 1995.

[15] The earliest date is November 1995.

– **The earliest date is November 1995. Two years can be removed from the contributory period**

[16] The law says that some years can be removed from a contributor's contributory period.<sup>7</sup> This is to help people who didn't make CPP contributions because they weren't working or weren't earning enough from their work. But only one of the exceptions set out in the *Canada Pension Plan* applies to the Contributor.

[17] The exception that applies to the Contributor is called the child-rearing provision. It removes the years she wasn't working or wasn't earning enough from her work and was receiving a family allowance for a child under seven.<sup>8</sup> This exception applies to the Appellant's youngest sibling. The contributor's other children all turned seven before January 1966.

[18] The Contributor's youngest child was born in June 1961.<sup>9</sup> Because of the child-rearing provision, the following years can be removed from her contributory period: 1966 and 1967. The Minister agreed the Contributor received a family allowance for those years and removed those years from the contributory period.<sup>10</sup>

[19] The Appellant said the Minister should have reduced the contributory period by six months in 1968 before the child turned seven years old. He said it is reasonable to deduct months (or partial years) because the legislation refers to the number of months in the contributory period. But those months can't be removed from the contributory

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<sup>7</sup> See section 49(c) and (d) of the *Canada Pension Plan*.

<sup>8</sup> Sections 42(1) and 49(d) of the *Canada Pension Plan* explain this rule. Section 77 of the *Canada Pension Plan Regulations* gives the definition of "family allowance recipient."

<sup>9</sup> See GD2-22.

<sup>10</sup> See the Minister's submission at page GD5-4.

period because the child-rearing provision only applies when a contributor receives a family allowance for the entire calendar year.<sup>11</sup>

– **The general drop-out provisions don't affect the contributory period**

[20] The Appellant says the contributory period should also be reduced by 15% under the general drop-out provisions.<sup>12</sup> He said the CPP allows the total number of months in a contributory period to be reduced by 15%. The Appellant's understanding of these sections of the CPP is not correct. The sections he relied on apply **when a benefit is payable**. They are not used to calculate a contributory period to determine **if a benefit will be payable**. They show how to calculate a contributor's average monthly pensionable earnings. That calculation is used to determine the amount of benefit a person will receive.

**The Contributor had to have made CPP contributions in ten years**

[21] After removing the allowable child-rearing years, the Contributor's contributory period is 28 years. It includes the following years: 1968 to 1995. Therefore, her MQP is 10 years.

[22] As I explained above, the Contributor had to make CPP contributions in one-third of the years in her contributory period.<sup>13</sup> 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 one-third of 28. It has to be rounded up to 10.<sup>14</sup> As a result, the Contributor had to have made CPP contributions in 10 years.

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<sup>11</sup> The Pension Appeals Board explained this in a case called *Abbott v Minister of Social Development*, 2005 CP21427. I am not required to follow this decision but I agree with the analysis and the conclusions.

<sup>12</sup> The Appellant said sections 48(4) and (5) of the *Canada Pension Plan* allow a general reduction of months in a contributory period and should apply to the Contributor.

<sup>13</sup> See section 44(3) of the *Canada Pension Plan*.

<sup>14</sup> 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.

– **The Contributor made CPP contributions in eight years**

[23] The Contributor made CPP contributions in only eight years: 1974, 1975, 1976, 1977, 1978, 1981, 1982, and 1984.<sup>15</sup>

## **Conclusion**

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

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

[26] This means the appeal is dismissed.

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

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<sup>15</sup> The Contributor's contributions are at GD2-4.