



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *LB v Minister of Employment and Social Development*, 2015 SSTGDIS 148

Date: November 9, 2015

File number: GP-13-2507

GENERAL DIVISION - Income Security Section

Between:

L. B.

Appellant

and

**Minister of Employment and Social Development
(formerly Minister of Human Resources and Skills Development)**

Respondent

Decision by: Adam Picotte, Member, General Division - Income Security Section

Decided on the record on November 9, 2015

REASONS AND DECISION

INTRODUCTION

[1] The Appellant's application for a *Canada Pension Plan* (CPP) retirement pension approved by the Respondent. However, the Respondent determined that the Appellant's contributory period consisted of 79 months between January 1966 and February 1978. The Appellant appealed this decision on the basis that the contributory period consisted of 75 months between January 1966 and November 1977. The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal).

[2] The appeal was decided on the Record for the following reasons:

- a) The member has decided that a further hearing is not required.
- b) The method of proceeding provides for the accommodations required by the parties or participants.
- c) The issues under appeal are not complex.
- d) There are no gaps in the information in the file or need for clarification.
- e) Credibility is not a prevailing issue.
- f) This method of proceeding respects the requirement under the Social Security Tribunal Regulations to proceed as informally and quickly as circumstances, fairness and natural justice permit.

THE LAW

[3] Section 44(2)(b) of the Canada Pension Plan sets out that the contributory period ends the earliest of the following dates:

- a) the month a person is deemed disabled for CPP purposes,
- b) the month a person dies,
- c) the month before a CPP retirement pension starts, or

d) the month a person turns 70.

[4] Section 44(2)(b)(iv), allows any month to be excluded from the contributory period where two conditions are met: (1) the contributor is a “family allowance recipient”, as defined in the Regulations; and (2) the contributor has earnings for the year below the basic exemption amount.

[5] “Family allowance recipient” is in turn defined by paragraph 77(1)(a) of the Canada Pension Plan Regulations, C.R.C., c. 385, as including:

The spouse of a person, where the person is described in that definition as having received or being in receipt of an allowance or a family allowance, if the spouse remains at home and is the primary care giver for a child under seven years of age, and where the other spouse cannot be considered a family allowance recipient for the same period.

ISSUE

[6] There was no issue regarding the child-rearing drop out provisions. Both parties agreed that the Appellant is entitled to 67 months being dropped out in accordance with section 44(2)(b)(iv) of the CPP and paragraph 77(1)(a) of the CPP regulations. The parties however disagree as to the total number of months in the contributory period. This disagreement in turn is predicated upon when the Appellant’s contributory period terminated.

[7] In this case the Tribunal must decide when the contributory period terminated for the Appellant.

EVIDENCE

[8] In a June 21, 2007 memorandum from the Manager, DSB of CPP/OAS Process Centre it is detailed that the Appellant’s disability benefit application claim date was to be set as November 1977. As a result the Appellant’s disability benefit became payable in February 1978.

SUBMISSIONS

[9] The Appellant submitted that the appropriate length of contributory period for her is 75 months.

[10] The Respondent's position is that the Appellant's contributory period ends the month before the month her disability benefit was payable".

ANALYSIS

[11] The Appellant must prove on a balance of probabilities that the appropriate contributory period is 75 months.

[12] As detailed above Section 44(2)(b) of the Canada Pension Plan sets out that the contributory period ends the earliest of the following dates:

- a) the month a person is deemed disabled for CPP purposes,
- b) the month a person dies,
- c) the month before a CPP retirement pension starts, or
- d) the month a person turns 70.

[13] In this case the end of the contributory period was the month when the Appellant was deemed disabled for CPP purposes. As detailed in the June 21, 2007 memorandum, the Appellant was deemed disabled as of November 1977.

[14] As a result the Tribunal finds that the contributory period was from January 1966 to November 1977. This amounts to 142 months. Allowing for the undisputed child-rearing drop out of 67 months the result is that the Appellant had a total of 75 months in her contributory period.

CONCLUSION

[15] As a result the Tribunal finds that the contributory period as determined by the Respondent was incorrect and in fact the total contributory period is 75 months.

[16] The appeal is allowed.

Adam Picotte
Member, General Division - Income Security