



Citation: *MC v Minister of Employment and Social Development*, 2022 SST 1722

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

**Decision**

**Appellant:** M. C.

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

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated December 1, 2021 (issued  
by Service Canada)

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**Tribunal member:** Adam Picotte

**Type of hearing:** Summary Dismissal

**Decision date:** October 14, 2022

**File number:** GP-22-373

## Decision

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

[2] The Appellant, M. C., isn't eligible for a surviving child's benefit.

[3] This decision explains why I am summarily dismissing the appeal.

## Overview

[4] The Contributor H. C. passed away in 1982. The Appellant states that following H.'s death, she was not paid a surviving child's benefit.

[5] The Appellant made an application for this benefit in December 2020 and in doing so stated that she had not received the surviving child's benefit in 1982 when her father passed away. The Minister of Employment and Social Development (Minister) denied the Appellant's application on reconsideration on December 1, 2021.

[6] The Minister says that its records show that S. C. received a surviving child's benefit for child M. C. for the period of 1982 to 1997.

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

## What summary dismissal means

[8] The Tribunal has to summarily dismiss an appeal if it considers that the appeal has no reasonable chance of success.<sup>1</sup> If an appeal doesn't have a reasonable chance of success, it means an appellant doesn't have an argument that could possibly succeed. No matter what evidence or arguments an appellant might present at a hearing, the appeal still would not have a reasonable chance of success.<sup>2</sup>

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

<sup>2</sup> See *The Estate of JB v Minister of Employment and Social Development*, 2018 SST 564 at para 23.

[9] If the Tribunal summarily dismisses an appeal, there won't be a hearing and the Tribunal will close the appeal file.

[10] I sent the Appellant a letter explaining that I planned to summarily dismiss her appeal. I asked her to tell me in writing why she thinks her appeal should not be summarily dismissed.<sup>3</sup>

[11] The Appellant replied to my notice to summarily dismiss the appeal. The Appellant submitted that her mother had never received the payments she was entitled to.<sup>4</sup>

[12] However, after sending my notice of summary dismissal. The Minister requested additional time to complete investigations into the application. On October 3, 2022, those investigations were completed and the Minister advised that the CPP records shows that S. C. had been paid the surviving child's benefit for the period of entitlement while M. was under the age of 18.

## **What I have to decide**

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

## **Reasons for my decision**

[14] The Appellant's appeal doesn't have a reasonable chance of success.

[15] The Minister was unable to reproduce cancelled payments made to M. C. However, the Minister was able to produce a list of the payments made to the Appellant. The list shows the serial number of each payment, the amount that was paid, the type of

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<sup>3</sup> Before the Tribunal summarily dismisses an appeal, it has to notify an appellant in writing about what it plans to do. It has to give the appellant a reasonable amount of time to make submissions (arguments) too. Section 22(1) of the *Social Security Tribunal Regulations* says this. A copy of the letter I sent to the Appellant is at GD0-1

<sup>4</sup> GD6-1

benefit, the date that the payment was issued, and any comments that pertain to each payment.<sup>5</sup>

[16] Those payment details are contained in the Minister's submissions and detail payments made throughout the period during which the Appellant was entitled to the benefit.<sup>6</sup>

[17] An orphan's benefit is a monthly benefit payable for each child of a deceased contributor who meets the minimum contribution requirements.<sup>7</sup>

[18] The records provided by the Minister demonstrate that the benefit applied for by the Appellant has already been paid.

[19] As a result, I am summarily dismissing this appeal.

## **Conclusion**

[20] I have to follow the rules set out in the *Canada Pension Plan*. Those rules tell me how to determine whether the Appellant qualifies for an orphans benefit.

[21] I have determined that the records show that the Appellant has already received the benefit and there is no basis to appeal the decision by the Minister to deny further payments.

[22] As a result, the Appellant isn't eligible for further benefits.

[23] This means the appeal doesn't have a reasonable chance of success.

[24] The appeal is summarily dismissed.

Adam Picotte  
Member, General Division – Income Security Section

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<sup>5</sup> GD8-4

<sup>6</sup> GD8-5-10

<sup>7</sup> CPP Section 44(1)(f)