



Citation: *GG v Minister of Employment and Social Development*, 2022 SST 1762

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

## Decision

**Appellant:** G. G.

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

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated January 4, 2022 (issued by  
Service Canada)

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**Tribunal member:** Jackie Laidlaw

**Decision date:** November 16, 2022

**File number:** GP-22-1463

**SUMMARY DISMISSAL**

## 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, G. G., isn't eligible to cancel her CPP retirement pension, and therefore does not meet the eligibility requirements for a CPP disability benefit.

[3] The Appellant, G. G. does not meet the contributory eligibility requirements for a Post Retirement Disability Benefit (PRDB).

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

## Overview

[5] The Appellant applied for a CPP disability benefit on April 14, 2021. Previously, she applied on May 4, 2017, which was denied with no request for a reconsideration. The second application was on February 11, 2019, initially denied, and no request for a reconsideration decision. This is her third application for the disability benefit. The Appellant began receiving a CPP Retirement pension in May 2018.

[6] The Minister says there is no reasonable chance of success and the appeal must be summarily dismissed. She is not eligible to cancel her CPP retirement pension in favour of a disability benefit. In addition, she does not meet the contributory requirements to qualify for a PRDB.

[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

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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.

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>

[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 hasn't replied to my letter or sent in submissions (arguments).

## **What I have to decide**

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

## **Reasons for my decision**

### **The Appellant Cannot Cancel her Retirement Pension**

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

[14] I considered if her April 14, 2021 is a new application for a disability benefit, or if it is related to the previous application of February 11, 2019 as that application was made within 15 months of receiving the retirement pension. It is clear the third application dated April 14, 2021, is a new application for the CPP disability benefit and not a request for a reconsideration decision on the second application, denied on July 25, 2019. Therefore, I accept the date of application being considered is April 14, 2021.

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

<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.

[15] The legislation allows a person to cancel their CPP retirement pension in favour of a CPP disability benefit only if the application for the disability benefit is received within 15 months of starting to receive the retirement pension.<sup>4</sup>

[16] The Appellant began receiving a CPP retirement pension in May 2018. She applied for the CPP disability benefit in April 2021, well beyond the 15-month period. As such, she cannot cancel her retirement pension. The criteria for a CPP disability benefit is that a person cannot be in receipt of a CPP retirement pension. She therefore does not qualify for a CPP disability benefit.

## **PRDB**

[17] Because she remains in receipt of a CPP retirement pension, and cannot cancel it for a disability benefit, she meets two of the contributory requirements to qualify for a PRDB.<sup>5</sup>

[18] She does not meet the requirement that she have a six calendar years prior to the date of application, in this case 2015 to 2020. Nor does she meet the requirement to have contributions for at least 25 years, where the last three are in the last six years.<sup>6</sup> This means her minimum qualifying period is before January 2019.

[19] Therefore, she does not meet the contributory requirements for a PRDB.

## **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 to cancel her retirement pension in favour of a disability benefit, and how to determine if she is eligible for a PRDB.

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<sup>4</sup> Section 66.1 of the *CPP* and Paragraph 42(2)(b) of the *CPP*

<sup>5</sup> Subsection 44(1)(h) of the *CPP* indicates a PRDB is payable to a beneficiary of a retirement pension who has not reached 65 years of age. The Appellant met both of these requirements.

<sup>6</sup> Subsection 44(4) of the *CPP*

[21] The Appellant began receiving a CPP retirement pension in May 2018. She applied for the CPP disability benefit in April 2021, well beyond the 15-month period. As such, she cannot cancel her retirement pension in favour of a CPP disability benefit.

[22] She does not have a minimum qualifying period after January 2019 and therefore does not meet the contributory requirements for a PRDB.

[23] As a result, the Appellant isn't eligible for a CPP disability benefit or a PRDB.

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

[25] The appeal is summarily dismissed.

Jackie Laidlaw  
Member, General Division – Income Security Section