



Citation: *IC v Minister of Employment and Social Development*, 2023 SST 586

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: I. C.
Representative: R. B. and J. S.

Respondent: Minister of Employment and Social Development
Representative: Andrew Kirk

Decision under appeal: General Division decision dated October 18, 2022
(GP-21-765)

Tribunal member: Kate Sellar

Type of hearing: In Writing

Decision date: **May 9, 2023**

File number: AD-23-67

Decision

[1] I'm allowing the appeal. The Claimant is entitled to a *Canada Pension Plan* (CPP) disability pension. Payments start August 2019. These are the reasons for my decision.

Background

[2] The General Division decided that I. C. (Claimant) wasn't eligible for the *Canada Pension Plan* (CPP) disability pension. The General Division decided that the Claimant had functional limitations that affected her ability to work at her old job. However, she wasn't incapable regularly of pursuing **any** substantially gainful occupation. Since she had some capacity for work, she had to show that efforts to get and keep work failed because of her disability. The General Division found that the Claimant didn't make efforts to find work within her limitations.

[3] I gave the Claimant permission to appeal.

The parties agree on the outcome of the appeal

[4] The parties have asked for a decision based on an agreement they reached during a settlement conference on May 4, 2023.¹

[5] The parties agree on the following:

- The Appeal Division should allow the Claimant's appeal.
- The Claimant proved she had a severe and prolonged disability within the meaning of the CPP in July 2018 when she stopped working.
- This means that the Claimant became disabled during her coverage period, because the last day of her coverage period is December 31, 2020.
- The Claimant applied for the disability pension in July 2020. Section 42(2) of the CPP says that the earliest a person can be considered disabled for the purpose of the CPP disability pension is 15 months before they applied.

¹ See section 39(2) of the *Social Security Tribunal Rules of Procedure*.

- So, the earliest the Claimant can be considered disabled, based on her application date, is April 2019.
- In accordance with section 69 of the CPP, payments start four months later in August 2019.

I accept the parties' agreement

[6] I accept the parties' agreement.

[7] I allow the Claimant's appeal.

[8] When the Claimant stopped working in 2018, she was incapable regularly of pursuing any substantially gainful occupation. Her functional limitations were significant as outlined in the report I referenced in my reasons for granting permission to appeal. Considering that report, the Claimant didn't even have some capacity for work. She took reasonable steps to manage her medical conditions, and she didn't refuse treatment unreasonably.

[9] The Claimant's condition is long continued and of indefinite duration, so it meets the definition of prolonged in the CPP.

[10] Although the Claimant was disabled in 2018, the earliest she can be considered disabled in accordance with the CPP is April 2019. Payments start four months later in August 2019.

Conclusion

[11] I allow the appeal. The Claimant is entitled to a *Canada Pension Plan* disability pension. Payments start August 2019.

Kate Sellar
Member, Appeal Division