



Citation: *CV v Minister of Employment and Social Development*, 2023 SST 1316

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

## Decision

**Appellant:** C. V.

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

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated January 19, 2023 (issued  
by Service Canada)

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**Tribunal member:** Virginia Saunders

**Type of hearing:** In writing

**Decision date:** July 12, 2023

**File number:** GP-23-624

## Decision

[1] The appeal is dismissed.

[2] The Appellant, C. V., isn't eligible to have her Canada Pension Plan (CPP) retirement pension payments start before September 2022. I don't have the power to direct the Minister to compensate her for any loss caused by mistakes or bad advice from government employees.

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

## Overview

[4] The Appellant turned 60 years old in December 2021. The following month, she tried to apply for a CPP retirement pension online. The online process wouldn't let her complete her application.

[5] The Appellant spent the next several months trying to find out what the problem was. She couldn't get through to Service Canada. When she finally did, it took some time before they discovered that the birth date she had given in the application (December 27, 1961) didn't match their records.

[6] The Appellant had to apply for a birth certificate. That took months. Then it took a long time for Service Canada to update its records. In the meantime, the Appellant couldn't complete her online application.

[7] In August 2022, the Appellant submitted a new application by mail and provided a copy of her birth certificate.<sup>1</sup> The Minister approved the application and started payments in September 2022.<sup>2</sup>

[8] The Appellant disagreed with the start date. She appealed to the Social Security Tribunal's General Division.

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<sup>1</sup> See GD2-4 to 11.

<sup>2</sup> See GD2-13.

[9] The Appellant says her pension should start in January 2022. She argues that it wasn't her fault that she couldn't complete her application then.

## **What I have to decide**

[10] I have to decide whether the law allows the Appellant to receive a CPP retirement pension before September 2022.

## **Reasons for my decision**

[11] The Appellant isn't eligible to receive her retirement pension before September 2022.

[12] I recognize that she has spent time and money dealing with something that was beyond her control. However, I don't have the power to fix mistakes caused by computer error or government employees. I have to follow the law.

## **When an early CPP retirement pension starts**

[13] The Minister was right to start payments in September 2022.

[14] The law says that, when a person applies for a CPP retirement pension before they are 65, payments start the latest of:

- the month the person turned 60
- the month after the Minister received the application
- the month the person chose in the application<sup>3</sup>

[15] In the Appellant's case, the latest date is September 2022, the month after the Minister received her application. (She turned 60 in December 2021. She chose January 2022 in her application.)

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<sup>3</sup> See section 67(3.1) of the *Canada Pension Plan*.

## **The Tribunal doesn't have the power to compensate the Appellant**

[16] The Appellant argues that Service Canada made mistakes that prevented her from completing her application in January 2022. The *Canada Pension Plan* calls this “erroneous advice or administrative error.” It says the Minister may investigate whether someone was denied a benefit because of these errors and may decide to compensate them.<sup>4</sup>

[17] But the Tribunal doesn't have any control over that process. It only has the powers given to it by legislation—in this case, the *Canada Pension Plan* and the *Department of Employment and Social Development Act*. Those powers don't include reviewing the Minister's decisions about erroneous advice or administrative error.<sup>5</sup>

[18] I recognize that the Appellant appealed to the Tribunal because the Minister's reconsideration decision only told her about that option.<sup>6</sup> I held a case conference in which the Minister's representative told the Appellant how to ask for an investigation into possible mistakes by Service Canada. If the Appellant isn't happy with whatever the Minister decides on that issue, she has to apply for judicial review at the Federal Court of Canada. I believe the Minister's decision letter will explain that to her.

## **Conclusion**

[19] I find that the Appellant isn't eligible to have her CPP retirement pension start before September 2022.

[20] This means the appeal is dismissed.

Virginia Saunders  
Member, General Division – Income Security Section

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<sup>4</sup> See section 66(4) of the *Canada Pension Plan*.

<sup>5</sup> See *Lee v Canada (Attorney General)*, 2019 FC 1189.

<sup>6</sup> See GD2-22.