



Citation: *SC v Minister of Employment and Social Development*, 2023 SST 248

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: S. C.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated October 7, 2023
(GP-23-1497)

Tribunal member: Kate Sellar

Decision date: November 2, 2023

File number: AD-23-969

Decision

[1] I'm refusing to give the Claimant leave (permission) to appeal. This means that the appeal will not go ahead. These are the reasons for my decision.

Overview

[2] S. C. (Claimant) applied for a *Canada Pension Plan* (CPP) retirement pension on August 2, 2020. The Minister of Employment and Social Development (Minister) approved his application with an effective start date of September 2020. The Claimant asked the Minister to reconsider the start date of his payments. The Minister's reconsideration letter is dated October 14, 2021. In the letter, the Minister explained that it would not change the start date for the payments.

[3] The Claimant appealed to this Tribunal. The General Division found that the Claimant appealed more than a year after the Minister communicated its reconsideration decision to the Claimant. As a result, the appeal could not go ahead.

Issue

[4] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error that would justify giving the Claimant permission to appeal?
- b) Does the application set out evidence that wasn't presented to the General Division that would justify giving the Claimant permission to appeal?

I'm not giving the Claimant permission to appeal

[5] I can give the Claimant permission to appeal if their application raises an arguable case that the General Division:

- didn't follow a fair process;
- acted beyond its powers or refused to exercise those powers;

- made an error of law;
- made an error of fact; or
- made an error applying the law to the facts.¹

[6] I can also give the Claimant permission to appeal if his application sets out evidence that wasn't presented to the General Division.²

No arguable case for an error

[7] The Claimant has not raised any argument for an error by the General Division that has a reasonable chance of success. The Claimant argues that the Minister's documents and website do not explain the impact that taking the retirement pension at 60 years old has on the monthly payment amount.³

[8] The General Division explained that claimants have 90 days after the Minister communicates its decision on reconsideration to appeal.⁴ The General Division can provide an extension of time, **but in no case** can a claimant bring an appeal more than one year after the day the Minister communicates the reconsideration decision.⁵

[9] In this case, the General Division found that the Claimant received the reconsideration letter by October 24, 2021. He filed the appeal on August 27, 2023. Since the Claimant filed the appeal to the General Division more than a year after the Minister communicated the reconsideration decision, the General Division could not allow the appeal to go ahead.

[10] The Claimant hasn't raised an arguable case for any error in the General Division's decision about the timing of his appeal. The Claimant has not challenged whether he was a year late, or raised any error in the way the General Division applied the one-year rule. The Claimants arguments are about whether the Minister should

¹ See section 58.1 (a) and (b) *Department of Employment and Social Development Act* (Act).

² See section 58.1(c) of the Act.

³ See AD1-4.

⁴ See section 52(1)(b) of the Act.

⁵ See section 52(2) of the Act.

have changed the start date for his payments. Those arguments don't have a reasonable chance of success on appeal because the General Division found that the appeal was too late to go ahead to the next step. There's no arguable case for an error in the General Division's decision about the timing of the appeal.

No new evidence that would justify permission to appeal

[11] The Claimant attached documents to his appeal, some of which it appears the General Division didn't have.⁶

[12] These documents relate to the Claimant's arguments about the delay in processing his request for the retirement pension. The documents are also part of the Claimant's argument that the Minister fails to provide people with enough information about how the start dates for retirement pensions work in accordance with section 67(3.1) of the CPP.

[13] These documents cannot form the basis for giving the Claimant permission to appeal at the Appeal Division. His appeal was too late to go ahead to the next step at the General Division, and there's no arguable case for an error in that decision.

[14] Since the Claimant hasn't raised an arguable case and hasn't set out new evidence that would justify giving permission to appeal, I must refuse permission to appeal.

Conclusion

[15] I've refused to give the Claimant permission to appeal. This means that the appeal will not go ahead.

Kate Sellar
Member, Appeal Division

⁶ See AD1-8 to 24.