



Citation: *SC v Minister of Employment and Social Development*, 2023 SST 249

Social Security Tribunal of Canada General Division – Income Security Section

Decision

Appellant: S. C.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development reconsideration decision dated (issued by Service Canada)

Tribunal member: Michael Medeiros

Decision date: October 7, 2023

File number: GP-23-1497

Decision

[1] The appeal won't go ahead. This decision explains why.

Overview

[2] The Appellant applied for 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 Appellant asked the Minister to reconsider the start date of his payments. On October 14, 2021, the Minister reconsidered its decision and refused the application again.¹

[3] The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal) on August 27, 2023.

What I have to decide

[4] I have to decide whether the Appellant appealed in time.

Reasons for my decision

[5] The appeal won't go ahead because the Appellant didn't appeal to the Tribunal in time. Here are the reasons for my decision.

What the law says

[6] If an appellant disagrees with the Minister's reconsideration decision, they have to appeal to the Tribunal within 90 days after the Minister told them about the decision.²

[7] If the appellant appeals after the deadline, the Tribunal can give them more time (accept the late appeal). But **in no case** can the appellant appeal a reconsideration decision more than one year after the Minister told them about it.³

¹ See GD2-4 and 5.

² See section 52(1) of the *Department of Employment and Social Development Act* (DESD Act).

³ See section 52(2) of the DESD Act.

The Appellant's appeal was more than one year late

[8] I find that the Appellant's appeal was more than one year late.

– The Minister told the Appellant about its decision by at least October 24, 2021

[9] The Minister told the Appellant about its reconsideration decision around October 14, 2021. That is the date of the reconsideration decision letter sent to the Appellant. Canada Post usually delivers mail within 10 days of it being sent. Therefore, the Appellant would have received the reconsideration decision letter by at least October 24, 2021.

– The Appellant had to appeal by October 24, 2022

[10] The Appellant had until October 24, 2022, to appeal to the Tribunal.

[11] The Appellant appealed on August 27, 2023.

[12] The Tribunal doesn't have equitable jurisdiction. This means I can't allow the appeal to go ahead because I think it would be fair, or because I want to help the Appellant in difficult circumstances. I have to follow the law.

Conclusion

[13] The Appellant appealed more than one year after the Minister told him about its decision.

[14] This means the appeal won't go ahead.

Michael Medeiros

Member, General Division – Income Security Section