



Citation: *BL v Minister of Employment and Social Development*, 2024 SST 63

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: B. L.

Respondent: Minister of Employment and Social Development
Respondent's representative: Sandra Brissett

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated September 5, 2023 (issued
by Service Canada)

Tribunal member: Carol Wilton

Type of hearing: Teleconference

Hearing date: January 16, 2024

Hearing participants: Appellant
Respondent's representative

Decision date: January 17, 2024

File number: GP-23-1721

Decision

[1] The appeal is dismissed. The Appellant, B. L., is not entitled to additional retroactive payments of her *Canada Pension Plan* (CPP) retirement pension.

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

Overview

[3] The Appellant was born in April 1963. She turned 60 years old in April 2023.

[4] In June 2023, the Minister received her application for a CPP retirement pension.¹ The CPP retirement pension is based on contributions to the CPP. It is payable under certain conditions to contributors aged 60 and over.²

[5] The Minister processed the Appellant's June 2023 application with payments to start in July 2023.³

[6] The Appellant was dissatisfied with this start date. She stated that in May 2022 she had filled out an online application for CPP retirement. That application asked that her pension begin in May 2023. She asked for May 2023 to be the start date of her CPP retirement pension.

[7] In September 2023, the Minister denied the Appellant's request on reconsideration.⁴ It stated that there was no record on file of her having submitted a CPP retirement pension application in May 2022. The Minister's office received the application in June 2023, so the earliest date the Appellant would be entitled to the pension was July 2023.

[8] The Appellant appealed the reconsideration decision to the Social Security Tribunal's General Division (Tribunal).

¹ GD02-11

² Paragraph 44(1)(a) of the CPP

³ GD02-10

⁴ GD02-6

What I have to decide

[9] I must decide whether the Appellant is entitled to greater retroactivity of her CPP retirement pension.

[10] I must consider these questions:

- (i) Can the Minister award greater back payments based on the 2022 application?
- (ii) Can the Minister award greater back payments based on the June 2023 application?
- (iii) Does the Appellant have an earlier deemed application date due to administrative error by the Minister?

The position of the Appellant

[11] The Appellant testified that she and her husband completed the online application for a CPP retirement pension in May 2022.

[12] The Appellant stated that in June 2023, she discussed her retirement pension with someone at Service Canada (the employee). The employee stated that she could see the Appellant's 2022 application. It was filed correctly, but the Minister had done nothing with it. But when the Appellant asked the Minister for reconsideration, her claim was denied. She thought that, based on her 2022 application, her retirement pension should have started in May 2023.

The reasons for my decision

i. The 2022 application

[13] There are two difficulties with the Appellant's 2022 application. First, the law says that a benefit is only payable if an application has been made **and payment of the**

benefit has been approved.⁵ Payment of the CPP retirement pension was not approved based on the May 2022 application.

[14] Second, the May 2022 application did not generate a reconsideration decision under section 81 of the CPP. Under section 82 of the CPP, a reconsideration decision is the only basis for an appeal to the Tribunal.

[15] On reconsideration, the Minister had the authority to decide only whether its initial decision on the June 2023 application was correct. The Minister did not have the authority to consider any other applications the Appellant might have made. As a result, the Minister could not modify the start date of the Appellant's pension based on the 2022 application.⁶

ii. The 2023 application

[16] For a person younger than 65 years old, the law states that if payment of the retirement pension is approved, payment starts the latest of:

- The month the person reached age 60;
- The month after the Minister received the application if the person were under 65 when they applied; and
- The month the person chose in their application.⁷

[17] In the Appellant's case, the relevant dates are:

- The month she turned 60 is April 2023;
- The month after the application was received was July 2023; and
- The start date the Appellant chose on her application was unknown. It is not in the file. It is reasonable to assume she asked for a start date for the retirement pension of May 2023.

[18] The latest of the three dates is July 2023. The Minister received the Appellant's application in June 2023 and payment began as of July 2023.

⁵ Subsection 60(1) of the CPP. The paragraph 60(1.2) (b) exception in some circumstances for contributors over the age of 70 to make an application does not apply here.

⁶ See *MESD v. N.A.*, 2021 SST 72, a decision of a member of the Appeal Division of this Tribunal on a similar case. Decisions of the Appeal Division are not binding on me, but I find this decision persuasive.

⁷ See paragraphs 67(3.1) (a), (b), and (d) of the CPP. Subsection 67(3) does not apply, since the Appellant did not reach the age of 65 before the day on which the Minister received the 2023 application.

[19] The Appellant has received the maximum allowable period of retroactive payment for her pension under the CPP.

[20] The law does not provide for retroactive payments for individuals under the age of 65.⁸

iii. Does the Appellant have an earlier deemed application date due to administrative error by the Minister?

[21] The Appellant insists that she sent the Minister her online application in May 2022. If true, her allegation might establish that the Minister made an “administrative error” (AE) or gave “erroneous advice” (EA).

[22] The CPP explains what can happen in the event of AE or EA. If the Minister is satisfied that AE or EA occurred, and part of a benefit was denied as a result, the Minister “shall take such remedial action as the Minister considers appropriate” to put the person back in the position they should have been in.⁹

[23] The Tribunal has no authority to intervene in a matter of AE/EA.¹⁰

[24] At the hearing, the parties discussed whether in May 2022 the Appellant had received immediate notification through the My Service Canada Account that her application for a CPP retirement pension had been received.¹¹ The CPP website says this is supposed to happen. The Appellant didn’t remember whether it had.

[25] The Minister’s representative advised the Appellant that, if she had received such a notification, she could retrieve it. She should print it out and take it to the nearest Service Canada office. She should ask them to send it to the Service Canada Centre in Scarborough, and to make a record of her conversation with them. On the basis of

⁸ Subsection 67 (3) of the CPP

⁹ Subsection 66(4) of the CPP.

¹⁰ *Pincombe v. Canada (Attorney General)*, [1995] FCJ No. 1320 (FCA); *Canada (Minister of Human Resources Development) v. Tucker*, 2003 FCA 278.

¹¹ In order to apply online, it is necessary to set up a My Service Canada Account.

AE/EA, the Appellant might be entitled to payments of her retirement pension beginning in May 2023.

[26] I am sympathetic to the Appellant's situation. She wanted payment of her CPP retirement pension to begin in May 2023. In her view, she did everything possible to ensure this result. Instead, her payments began only two months later. She stated that she has lost more than \$400 of CPP retirement payments because of "a poor search of computer records."¹²

[27] I cannot help the Appellant. I am a statutory decision-maker. The provisions of the CPP are binding on me. I must interpret and apply the law as it is set out in the CPP. I have no authority to make exceptions. Nor can I make decision based on fairness, compassion, or extenuating circumstances.

Conclusion

[28] I find that the Claimant is not entitled to greater retroactivity of her CPP retirement pension.

[29] This means the appeal is dismissed.

Carol Wilton

Member, General Division – Income Security Section

¹² GD04-1