



Citation: *CL v Minister of Employment and Social Development*, 2024 SST 41

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:** C. L.

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

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**Decision under appeal:** General Division decision dated October 24, 2023  
(GP-23-1096)

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**Tribunal member:** Kate Sellar

**Decision date:** **January 11, 2024**

**File number:** AD-23-1100

## Decision

[1] I'm refusing the Claimant leave (permission) to appeal. The appeal won't go ahead to the next step. These are the reasons for my decision.

## Overview

[2] C. L. (Claimant) applied for a Canada Pension Plan (CPP) retirement pension on September 22, 2022. The Minister of Employment and Social Development (Minister) approved the Claimant's application. The Claimant began receiving a monthly pension of \$270.74 beginning in October 2022.

[3] The Claimant asked the Minister to reconsider its decision because she thought her pension should be higher based on the years she has worked in Canada and the increasing cost of living. The Minister maintained its decision on reconsideration. The Claimant appealed to this Tribunal.

[4] The General Division dismissed the Claimant's appeal, finding that the Minister calculated the Claimant's retirement pension by following the rules. The General Division saw no mistake in the Minister's calculations.

## Issues

[5] The issues in this appeal are:

- a) Could the General Division have 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?

## **I'm not giving the Claimant permission to appeal**

[6] I can give the Claimant permission to appeal if the 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.<sup>1</sup>

[7] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.<sup>2</sup>

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

## **The Claimant hasn't raised an arguable case that the General Division made an error.**

[9] The Claimant argues that the amount of her retirement pension is too low, and that she should be receiving somewhere between \$550.00 and \$800.00 per month in CPP retirement pension. The calculation she provided to support her position starts with something she calls her "working income estimate" to which she added "interest," subtracted some type of "income tax" and then added more "interest" to arrive at \$1,100,000.00.<sup>3</sup>

[10] The Claimant hasn't raised an arguable case for an error by the General Division.

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<sup>1</sup> See section 58.1(a) and (b) of the *Department of Employment and Social Development Act* (Act).

<sup>2</sup> See section 58.1(c) of the Act.

<sup>3</sup> See AD1-5.

[11] The General Division reviewed the Minister's calculation of the retirement pension by:

- calculating the Claimant's adjusted pensionable earnings;
- dividing the adjusted pensionable earnings by the number of months in her contributory period, to arrive at her average monthly pensionable earnings;
- dividing the monthly pensionable earnings by 25% to arrive at the monthly pension amount; and then
- reducing the pension based on her age (because she was not yet 65 when she applied).<sup>4</sup>

[12] I see no basis in law for the Claimant's approach to calculating the retirement pension payments. She has not shown an arguable case for an error by the General Division, which set out the calculation according to the CPP.<sup>5</sup>

**The Claimant hasn't set out any evidence that wasn't presented to the General Division.**

[13] The Claimant hasn't presented any evidence that wasn't presented to the General Division, so that cannot form the basis for giving the Claimant permission to appeal.

[14] I've reviewed the record. I'm satisfied that the General Division didn't ignore or misunderstand the evidence about the Claimant's CPP retirement pension amount.<sup>6</sup>

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<sup>4</sup> See paragraph 9 and following in the General Division decision.

<sup>5</sup> See section 46 of the *Canada Pension Plan*.

<sup>6</sup> For more on that type of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

## **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