



Citation: *WA v Minister of Employment and Social Development and SA*, 2024 SST 20

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: W. A.

Respondent: Minister of Employment and Social Development
Representative:

Added Party: S. A.
Representative:

Decision under appeal: General Division decision dated September 11, 2023
(GP-23-433)

Tribunal member: Kate Sellar

Decision date: **January 5, 2024**

File number: AD-23-1094

Decision

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

Overview

[2] W. A. (Claimant) is 60 years of age. He married the Added Party on December 31, 2012. They separated on November 2, 2020. Their divorce took effect on May 13, 2022. All these events took place in Manitoba, where both the Added Party and the Claimant still live.

[3] The Added Party applied for a Canada Pension Plan (CPP) credit split on May 25, 2022. She sought the equal division of the CPP contributions she and the Claimant made during their marriage and up to their separation. The Minister granted the application and upheld it on reconsideration. The Claimant opposed the credit split and appealed. The General Division dismissed the appeal, finding that the CPP credit split was performed according to the law. None of the possible exceptions to the mandatory credit split applied.

Issues

[4] The issues in this appeal are:

- a) Could the General Division have made an error that would justify granting 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

[5] 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;
- made an error applying the facts to the law.¹

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

[7] 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 for an error by the General Division

[8] The Claimant hasn't raised an argument that would justify giving him permission to appeal.

[9] The Claimant argues that the credit split is unfair because he has health concerns, and he has been more than financially supportive of the Added Party.

[10] At the General Division, the Claimant was not able to show that the Minister incorrectly applied the CPP credit split. As the General Division decision explains, the

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

² See section 58.1(c) of the Act.

credit split is mandatory once the Minister receives the information required by the CPP regulations.³

[11] The decision also explains that the split cannot take place if it reduces the CPP entitlement for both spouses, or in some cases where there is a court order to prevent the credit split, or an agreement to avoid the credit split. The General Division found no evidence that splitting the credits reduced the Added Party's entitlement, and there was no court order or agreement before the General Division to avoid the credit split either.

[12] The Claimant has reasons why he would prefer not to split the pension credits, but they cannot form the basis for giving him permission to appeal the General Division's decision. The General Division applied the law about credit splitting to the facts of the Claimant's situation. The outcome is not what the Claimant wanted, but he hasn't raised an arguable case for a possible error by the General Division.

There's no new evidence at the Appeal Division that would form the basis for giving permission to appeal

[13] The Claimant hasn't set out any evidence that the General Division didn't have. Accordingly, there is no new evidence that would justify giving the Claimant permission to appeal.

[14] I've reviewed the record and I'm satisfied that the General Division didn't ignore or misunderstand the evidence about splitting the pension credits in this appeal.⁴

Conclusion

[15] I've refused the Claimant permission to appeal. This means that the appeal won't go ahead to the next step.

Kate Sellar
Member, Appeal Division

³ See paragraph 11 in the General Division decision, which references section 55.1(1)(a) of the *Canada Pension Plan* and section 54(2) of the *Canada Pension Plan Regulations*.

⁴ For more on the need for this kind of review, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.