



Citation: *PL v Minister of Employment and Social Development*, 2024 SST 19

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

# **Leave to Appeal Decision**

**Applicant:** P. L.

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

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**Decision under appeal:** General Division decision dated August 28, 2023  
(GP-23-1069)

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**Tribunal member:** Kate Sellar

**Decision date:** January 5, 2024

**File number:** AD-23-1086

## Decision

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

## Overview

[2] P. L. (Claimant) turned 60 years of age in June 2022. He applied for a Canada Pension Plan (CPP) retirement pension on November 29, 2022. He started receiving his retirement pension the next month, in December 2022.

[3] In March 2023, the Claimant asked the Minister of Employment and Social Development (Minister) to reconsider the start date and the monthly payment amount of his retirement pension.

[4] The Minister's reconsideration decision didn't change either start date or the calculation of the pension payment amounts.

[5] The Claimant appealed to this Tribunal. The General Division dismissed the Claimant's appeal. The General Division decided the following:

- The Claimant isn't eligible to have his retirement pension start any earlier.
- The Minister correctly calculated the amount of the retirement pension.

## Issues

[6] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error in its decision about the Claimant's start date for his CPP retirement pension?
- b) Does the application set out evidence that wasn't presented to the General Division?

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

[7] 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>

[8] 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>

[9] 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.**

[10] The Claimant argues that the General Division should have allowed his pension payments to start sooner, and so the General Division reached the wrong conclusion in his appeal. The Claimant had good reason for applying later than he planned: some paperwork in his home was misplaced due to water damage and his wife is ill.<sup>3</sup>

[11] There's no arguable case here that the General Division made an error, so I cannot give the Claimant permission to appeal. The Claimant has good reasons why it took him longer than he planned to apply for his retirement pension. However, the CPP is specific about when the retirement pension can start. As the General Division

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

<sup>2</sup> See sections 58.1(c) in the Act.

<sup>3</sup> The Claimant explains in AD1-3.

explained, since the Claimant applied for the pension before he turned 65, the payments start on whichever date is the latest from the following:

- The month the Claimant turned 60
- The month after the Minister received the application
- The month the Claimant chose in the application<sup>4</sup>

[12] In the Claimant's case, the latest date is December 2022 (the month after the Minister received the Claimant's application).<sup>5</sup> The Tribunal has no discretion to change the date the Claimant's pension starts, despite the reasons the Claimant gave for the Minister receiving his application later than he planned. As a result, I cannot conclude that the General Division may have made an error here in its decision about the start date for the Claimant's retirement pension.

[13] The General Division had to follow the CPP. Following the law in this case led the General Division to conclude that the Claimant's pension starts the month after the Minister received the application. I see no possible error with the General Division's analysis.

[14] The Tribunal doesn't have the discretion to select a different date based on the information the Claimant provided. The Tribunal also cannot increase the monthly payments based on the financial needs of the Claimant.

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

[15] The Claimant hasn't set out any evidence that wasn't provided to the General Division, so I cannot grant permission to appeal on that basis either.

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<sup>4</sup> See paragraph 9 in the General Division decision, quoting from section 67(3.1) of the *Canada Pension Plan*.

<sup>5</sup> See paragraph 10 in the General Division decision.

[16] I've reviewed the record. I'm satisfied that the General Division didn't ignore or misunderstand the evidence.<sup>6</sup>

## **Conclusion**

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

Kate Sellar  
Member, Appeal Division

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<sup>6</sup> This kind of review of the record is consistent with the Federal Court decision in *Karadeolian v Canada (Attorney General)*, 2016 FC 615.