



Citation: *PL v Minister of Employment and Social Development*, 2023 SST 1178

**Social Security Tribunal of Canada**  
**General Division – Income Security Section**

## Decision

**Appellant:** P. L.

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

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated March 22, 2023 (issued by  
Service Canada)

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**Tribunal member:** Connie Dyck

**Type of hearing:** In writing

**Decision date:** August 28, 2023

**File number:** GP-23-1069

## Decision

[1] The appeal is dismissed.

[2] The Appellant, P. L., isn't eligible to have his Canada Pension Plan (CPP) retirement pension payments start before December 2022. He is also not entitled to a higher amount of his CPP retirement pension.

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

## Overview

[4] The Appellant was 60 years old in June 2022. He applied for a CPP retirement pension on November 29, 2022.<sup>1</sup> He began receiving his retirement pension the next month, in December 2022.

[5] In March 2023, the Appellant asked the Minister to reconsider the start date and the amount of his retirement pension.<sup>2</sup>

[6] The Minister denied the request on reconsideration, explaining that the start date and calculation of his retirement pension was correct.<sup>3</sup>

[7] The Appellant appealed the Minister's decision to the General Division of the Social Security Tribunal (Tribunal). He asked that the start of his retirement pension be July 2022. He said his paperwork was misplaced by movers after water damage to his home. He also asked the Tribunal to reconsider the amount of his retirement pension.<sup>4</sup> He said he is experiencing financial difficulties.

## What I must decide

[8] I must decide:

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<sup>1</sup> GD2-16

<sup>2</sup> GD2-12

<sup>3</sup> GD2-6 to 11

<sup>4</sup> GD1-4

- i. whether the Appellant's retirement pension can start earlier and
- ii. if the Minister correctly calculated the amount of the retirement pension

## **The Appellant isn't eligible to receive his retirement pension before December 2022**

### **When an early CPP retirement pension starts**

[9] The law says that, when a person applies for a CPP retirement pension before they are 65, payments start the latest of:

- The month the person turned 60
- The month after the Minister received the application
- The month the person chose in the application<sup>5</sup>

[10] In the Appellant's case, the latest date is December 2022, the month after the Minister received his application.

[11] The Appellant asked that I consider the reason his application was delayed several months after he turned 60. This was because the paperwork was misplaced after water damage to his home. He was also providing daily care and attending appointments with his wife who was ill.<sup>6</sup>

[12] I am sympathetic to the Appellant's situation. However, the Tribunal is created by legislation. As such, it only has the powers granted to it by its governing statute. This means I must interpret and apply the provisions as they are set out in the *Canada Pension Plan*. I can't make decisions based on fairness, compassion, or extenuating circumstances.

[13] I find the Minister was correct in starting the retirement pension in December 2022.

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<sup>5</sup> See section 67(3.1) of the *Canada Pension Plan*

<sup>6</sup> GD1-4

## **The Appellant isn't eligible to receive a higher amount of retirement pension**

### **How the CPP retirement pension is calculated**

[14] The law sets out the basic formula used to calculate the CPP retirement pension. The Minister must divide a person's total adjusted pensionable earnings by the number of months in their contributory period, and then multiply the result by 25%.<sup>7</sup> This means that determining the correct number of months in the contributory period is essential.

#### **– The contributory period**

[15] A person's contributory period begins on the latest of (a) January 1, 1966, or (b) the month after the person's 18th birthday.<sup>8</sup>

[16] The Appellant's 18th birthday was in June 1980. This means his contributory period starts in July 1980.

[17] A person's contributory period ends on the earliest of (a) the month before the effective date of his retirement pension, (b) the month of his 70th birthday, or (c) the month of his death.<sup>9</sup>

[18] The Appellant started receiving his retirement pension in December 2022. This means his contributory period ends in November 2022.

[19] The Appellant's contributory period goes from July 1980 to November 2022. This totals 509 months. However, that is not the end of the calculation. The contributory period can be further reduced in four ways:

- The disability rule
- The "Age 65" rule
- The child-rearing dropout rule

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<sup>7</sup> See s. 46(1)(a) of the *Canada Pension Plan*

<sup>8</sup> See s. 49 of the *Canada Pension Plan*

<sup>9</sup> See s. 49(b) of the *Canada Pension Plan*

- The general dropout rule<sup>10</sup>

– **The disability rule**

[20] I see no evidence that the Appellant ever received a CPP (or Quebec Pension Plan) disability benefit. This means he can't reduce his contributory period because of a disability.<sup>11</sup>

– **The "Age 65" rule**

[21] This rule is only applicable if the contributory period ends after the contributor is 65 years old. In this case, the Appellant's contributory period ended when he was 60 years old. This means he can't reduce his contributory period because of the "Age 65" rule.

– **The child-rearing dropout rule**

[22] The child-rearing dropout rule only applies to the parent who was the family allowance recipient for the child. There is no evidence that the Appellant received the family allowance. Therefore, he cannot use this rule to reduce his contributory period.<sup>12</sup>

– **The general dropout rule**

[23] The Appellant can use the general dropout rule.

[24] The general dropout rule allows a person to remove 17% of their lowest-earning months from their contributory period. The earnings from those months are also removed from the adjusted pensionable earnings.<sup>13</sup>

[25] Before applying the general dropout rule, the Appellant had a contributory period of 509 months. This means that the general dropout rule can remove 87 months from his contributory period (509 x 17%). This leaves a contributory period of 422 months

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<sup>10</sup> See ss. 48(3), 48(4), 49(c), and 49(d) of the *Canada Pension Plan*

<sup>11</sup> See s. 49(c) of the *Canada Pension Plan*

<sup>12</sup> See s. 49(d) of the *Canada Pension Plan*

<sup>13</sup> See s. 48(4) of the *Canada Pension Plan*

(509 – 87 = 422). The new total adjusted pensionable earnings is \$1,888,402. This is the same contributory period calculated by the Minister.

– **Calculating the monthly amount of the retirement pension**

[26] The basic formula for calculating a retirement pension is as follows:

$$25\% \times \frac{(\text{total adjusted pensionable earnings})}{(\text{number of contributory months})}$$

[27] In this case, that is:

$$25\% \times \frac{\$1,888,402}{422} = \$1,118.72 \text{ is the full monthly retirement pension amount}$$

[28] For all CPP retirement pensions beginning in 2022, the amount of the monthly pension is reduced by 0.60% for every month a contributor is under the age of 65 when the pension starts.

[29] The Appellant's retirement pension started in December 2022. This is 55 months before his 65th birthday. Therefore, the retirement pension must be reduced by 33%. (55 months x .60% = 33%). The full monthly retirement amount (\$1,118.72) less 33% is \$749.54.

[30] This amount (\$749.54) is what the Appellant was entitled to when his retirement pension started. I note with the cost of living increases the amount was increased to \$798.26.

– **The Minister's calculations were correct**

[31] The Appellant's monthly CPP retirement pension is exactly what the Minister awarded him. He is not entitled to an increase in his monthly pension.

[32] The Appellant said it is difficult to live on the monthly amount he receives for his retirement pension. I understand the Appellant's frustration, but the law doesn't allow me to increase his payments for compassionate reasons.<sup>14</sup>

## **Conclusion**

[33] The Appellant isn't eligible to have his CPP retirement pension start before December 2022.

[34] The Appellant isn't entitled to a higher amount for his CPP retirement pension.

[35] This means the appeal is dismissed.

Connie Dyck

Member, General Division – Income Security Section

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<sup>14</sup> *Miter v. Canada (Attorney General)*, 2017 FC 262