



Citation: *MC v Minister of Employment and Social Development*, 2024 SST 332

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: M. C.

Representative: L. C.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated November 23, 2023
(GP-23-1078)

Tribunal member: Kate Sellar

Decision date: **April 4, 2024**

File number: AD-24-158

Decision

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

Overview

[2] M. C. (Claimant) is 80 years of age. Her spouse died in November 2020. The Claimant applied for a Canada Pension Plan (CPP) survivor's pension in December 2020. The Minister of Employment and Social Development (Minister) approved her application. In other words, the Minister granted the Claimant a survivor's pension.

[3] The Claimant applied again for the survivor's pension in October 2022. The Minister refused the application on November 21, 2022. The Minister explained that it was refusing the application because the Appellant was already receiving the survivor's pension, based on her application of December 2020.

[4] The Claimant asked the Minister to reconsider its decision. The Minister told the Claimant that it wouldn't reconsider its decision because the Claimant filed her request for reconsideration late (past the 90-day time limit).

[5] The Claimant appealed the Minister's decision to this Tribunal. The General Division allowed the Claimant's appeal, finding that her request for reconsideration within the 90-day appeal period.

Issues

[6] The issues in this appeal are:

- a) Is there an arguable case that the General Division 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

[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.¹

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

[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 hasn't raised an arguable case for an error by the General Division. The Claimant filled in the appeal form as though she was appealing the reconsideration decision. She provided no argument about what might have been wrong in the General Division decision.³

[11] The decision from the General Division is in the Claimant's favour: the General Division concluded that the Claimant's request for reconsideration was in time.⁴ The next step is for the Minister to issue a decision on reconsideration.

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

² See section 58.1(c) of the Act.

³ See AD1.

⁴ See the General Division decision allowing the Claimant's appeal.

[12] I held a case conference in which the Claimant's representative confirmed that he didn't intend to appeal the General Division decision, which was in the Claimant's favour. He asked for some time before requesting formally to withdraw the appeal. He wrote to the Tribunal today stating that the Claimant doesn't disagree with the General Division decision. The letter didn't specifically request to withdraw the appeal, so I'm issuing a decision.

[13] The Claimant has raised no arguable case for an error by the General Division, so I cannot give her permission to appeal.

[14] I've reviewed the record.⁵ I'm satisfied that the General Division didn't ignore or misunderstand any of the evidence about the Claimant's request for reconsideration.

No new evidence

[15] The Claimant didn't provide any new evidence that wasn't already provided to the General Division. Therefore, new evidence also cannot form the basis for giving the Claimant permission to appeal.

Conclusion

[16] I've refused permission to appeal. This means that the appeal at the Appeal Division won't proceed. The next step is that the Minister will issue the reconsideration decision when it is ready. Reconsideration decisions include information about appealing to the General Division if the Claimant disagrees with the decision.

Kate Sellar
Member, Appeal Division

⁵ The Appeal Division completes this type of review consistent with the expectation in *Karadeolian v Canada (Attorney General)*, 2016 FC 615.