



Citation: *MM v Minister of Employment and Social Development*, 2024 SST 303

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: M. M.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated February 3, 2024
(GP-23-1956)

Tribunal member: Kate Sellar

Decision date: **March 22, 2024**

File number: AD-24-163

Decision

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

Overview

[2] The Claimant was married for 60 years. Her husband died in July 2014. The Claimant didn't know that she could apply for a CPP survivor's pension. She doesn't remember getting any letters from the government or the funeral home that told her about this benefit. She doesn't have any children or other family members, so there was no one to help her with financial matters after her husband died.

[3] As a result, the Claimant didn't apply for the survivor's pension until July 2023, after a friend mentioned it to her. The Minister of Employment and Social Development (Minister) approved the application, with payments to start as of August 2022.

[4] The Claimant would like her payments to start before August 2022. She says that if she had known about the pension she would have applied immediately after her husband died. She explains that her income is low, and she struggles with high rent and the cost of living.

Issues

[5] The issues in this appeal are:

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

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

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

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

There's no arguable case for an error by the General Division

[9] The Claimant argues that her survivor's pension payments should have started when her husband died. She requests the back payments of the survivor's pension.³

[10] However, as the General Division explained, the CPP says that payment of a survivor's pension can't start more than 11 months before the Minister received the application.⁴ The Minister received the Claimant's application in July 2023, so it approved the pension to start 11 months before that, which is August 2022.

[11] It's not arguable the General Division made an error about when survivor pensions start according to the CPP, or about when the Claimant applied. I understand why the Claimant wants the pension to be approved starting just after her husband died. I also assume the Claimant would have applied sooner if she knew about the survivor's pension, and I understand that didn't know about it.

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

² See section 58.1(c) of the Act.

³ See AD1-1.

⁴ See section 72 of the *Canada Pension Plan* (CPP) and paragraph 9 in the General Division decision.

[12] However, there's no argument here that the General Division made an error in its decision finding that the pension payments start in August 2022.

No new evidence

[13] The Claimant hasn't set out any new evidence that wasn't already presented to the General Division. As a result, new evidence also can't form the basis for permission to appeal either.

[14] I've reviewed the record. There's no argument that the General Division ignored or misunderstood any relevant evidence in the appeal.⁵ The Claimant has good reasons for wanting the pension payments to start when her husband died, but the law doesn't allow that based on when she applied.

[15] The result is a difficult one for the Claimant, particularly as the cost-of-living increases and the Claimant is on a fixed income. However, I cannot give the Claimant permission to appeal the General Division decision. There's no arguable case that the General Division made an error.

Conclusion

[16] I've refused to give the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division

⁵ The Federal Court talks about the Appeal Division completing this kind of review in a case called *Karadeolian v Canada (Attorney General)*, 2016 FC 615.