



Citation: *DT v Minister of Employment and Social Development and SN*, 2024 SST 186

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: D. T.

Respondent: Minister of Employment and Social Development

Added Party: S. N.

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated July 7, 2023 (issued by
Service Canada)

Tribunal member: Anne S. Clark

Type of hearing: Teleconference

Hearing date: February 14, 2024

Hearing participants: Appellant
Added Party

Decision date: February 26, 2024

File number: GP-23-1638

Decision

[1] The appeal is dismissed.

[2] The Appellant, D. T., did not prove the Minister of Employment and Social Development (the “Minister”) was wrong when they conducted the Division of Unadjusted Pensionable Earnings (“DUPE”, or “Credit Split”) under the *Canada Pension Plan* (“CPP”). This decision explains why I am dismissing the appeal.

Overview

[3] The Appellant and the Added Party married on May 28, 1989.¹ They separated in September 2003. Their divorce was final on July 7, 2005. The Added Party applied for a Credit Split on May 25, 2021.² The Minister conducted the Credit Split for January 1989 to December 2002. The Appellant appealed the Minister’s decision.

[4] The Appellant says the Credit Split was not fair. He only continued living with the Added Party because they had children. He felt it was important to stay in the home for his children. He also continued paying for the Added Party’s expenses to take care of his children. He feels he should not have to share his CPP credits with her.

[5] The Minister says the Credit Split was conducted correctly. The Appellant confirmed the information the Added Party submitted with her application. The Minister says the Credit Split is mandatory under the law.

[6] The Added Party says the dates the Minister used for the Credit Split are correct.

What the Appellant must prove

[7] For the Appellant to succeed, he must prove that the Minister incorrectly applied the CPP Credit Split provisions to his relationship with the Added Party.

¹ See GD2-9.

² See GD2-4.

Reasons for my decision

[8] The Appellant and Added Party agreed they were married on May 28, 1989, and separated in September 2003. This means a CPP Credit Split must be performed for the period from January 1, 1989, to December 31, 2002.³

The Appellant's marriage to the Added Party creates an entitlement to a CPP Credit Split

[9] The law says a CPP Credit Split shall be performed for a former spouse who applies for that split. For spouses married after January 1, 1987, the Minister must conduct a Credit Split once it is informed of the divorce judgment. The Minister has very limited discretion. The law says that the division shall take place.⁴ The Credit Split is effective the month the Minister receives the required information.⁵

[10] The evidence shows the Added Party applied for the Credit Split and the Minister received the necessary information. As the Minister submitted, they were required to conduct the Credit Split.

– When the CPP Credit Split applies

[11] The parties agree the dates the Minister used are correct. The Minister is correct that the Credit Split is mandatory. There is no evidence that the Minister conducted the Credit Split incorrectly.

[12] There are very limited circumstances where a Credit Split is not mandatory.⁶ They do not apply to this appeal.

[13] The Appellant feels the Credit Split is unfair. He paid the Added Party's expenses for years and she should not be entitled to his CPP credits. He agreed they did not

³ See section 78.1 of the *Canada Pension Plan Regulations*.

⁴ See section 55.1(1)(a) of the *Canada Pension Plan*.

⁵ See section 54(2)(1) of the *Canada Pension Plan Regulations*.

⁶ See section 55.1(5) *Canada Pension Plan* that allows the Minister to refuse to conduct a Credit Split if it would result in reduced benefits payable to both ex-spouses. See also sections 55.2(2) and (3) of the *Canada Pension Plan* that allow a written agreement to prevent a Credit Split if it is expressly permitted by the provincial law that governs the agreement.

separate until September 2003. However, he feels the last four years were very bad for him. He feels those years should not be included because he only stayed to take care of his children.

[14] The Tribunal is created by legislation. It only has the powers granted to it by its governing statute. This means I have to interpret and apply the provisions as they appear in the CPP and its regulations. I cannot change or waive them, even if a party feels they are unfair in their particular situation.⁷

Conclusion

[15] I find the Minister correctly conducted the Credit Split.

[16] This means the appeal is dismissed.

Anne S. Clark

Member, General Division – Income Security Section

⁷ For a general discussion on this point see the Supreme Court of Canada's decision in *R. v. Conway*, 2010 SCC 22.