



Citation: *SC v Minister of Employment and Social Development*, 2024 SST 376

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: S. C.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated March 19, 2024
(GP-24-143)

Tribunal member: Kate Sellar

Decision date: **April 17, 2024**

File number: AD-24-248

Decision

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

Overview

[2] The Claimant applied for a Canada Pension Plan (CPP) retirement pension on October 30, 2023. He asked to have his pension start as of January 2023. The Minister of Employment and Social Development approved his application. The start date was November 2023. The Claimant asked the Minister to reconsider the start date. The Minister's reconsideration letter explained why the start date remained November 2023.

[3] The Claimant appealed the Minister's decision to this Tribunal. The General Division dismissed the Claimant's appeal. The General Division found that the earliest the retirement pension could start according to the law was November 2023.

Issues

[4] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error by failing to address a question it had the power to consider?
- b) Does the application set out evidence that wasn't presented to the General Division?

I'm not giving the Claimant permission to appeal

[5] 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

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

[7] 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 of jurisdiction

[8] The Claimant argues that the General Division made an error of jurisdiction by failing to decide something it had the power to decide.³ The Claimant argues that the General Division simply provided the same information that he received from the Minister in the reconsideration decision about when retirement pension payments start.

[9] The Claimant explains that the General Division didn't respond to his key argument. He notes that he did not receive information from the Minister about when retirement pensions start in a timely way from Service Canada. The Claimant explains this lack of information is to the detriment of working people in Canada who rely on the benefits they paid into the CPP.

[10] The Claimant hasn't raised an arguable case for an error of jurisdiction. The General Division has the power to decide whether the start date for his payments is correct with reference only to the rules about start dates as set out in the CPP.⁴ The

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

² See section 58.1(c) in the Act.

³ See AD1-11 and 12.

⁴ See section 67(3.1) of the *Canada Pension Plan*, and paragraph 6 in the General Division decision explaining the rules.

General Division doesn't have the jurisdiction to change the start date of the pension based on what might be the most fair outcome to the Claimant given the lack of information he says he received from Service Canada about retirement pension start dates.

[11] The General Division didn't make any findings about what information the Minister provides when people apply for the CPP retirement pension. The General Division also didn't decide what information the Minister should provide at that (or any other) stage of the application process.

[12] However, the Claimant points to no law that would give the General Division the power to complete that kind of review of the Minister's communication during the application process. I'm not aware of any evidence that would support an argument that the General Division might have that kind of power.

[13] Accordingly, I cannot give the Claimant permission to appeal. He hasn't raised an argument about any error with the General Division decision that has a reasonable chance of success.

No new evidence

[14] The Claimant hasn't provided any evidence that wasn't already provided to the General Division. Accordingly, new evidence also cannot form the basis for granting permission to appeal.

[15] I've reviewed the record. I'm satisfied that the General Division didn't ignore or misunderstand the evidence.⁵ I understand why it would be better for the Claimant if his retirement pension started sooner, but the earliest the Claimant's pension can start in accordance with the law is November 2023. The Claimant chose January 2023 in his application. That is also the month after the month he turned 60. However, he applied in October 2023, so the month after the Minister received his application is November

⁵ This kind of review is necessary in accordance with the Federal Court decision in *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

2023. In accordance with the CPP, that's when the pension payments start for the Claimant.

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