



Citation: *BL v Minister of Employment and Social Development*, 2024 SST 979

Social Security Tribunal of Canada General Division – Income Security Section

Decision

Appellant: B. L.

Respondent: Minister of Employment and Social Development
Respondent: Janice Wong

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated May 5, 2023 (issued by
Service Canada)

Tribunal member: Anita Nathan

Type of hearing: In person

Hearing date: July 16, 2024

Hearing participants: Appellant
Appellant's witness
Respondent's representative

Decision date: August 13, 2024

File number: GP-24-187

Decision

[1] The appeal is allowed.

[2] The Appellant, B. L., is eligible for a Canada Pension Plan (CPP) survivor's pension in respect of the deceased contributor, H. L. This decision explains why I am allowing the appeal.

Overview

[3] The Appellant says she was in a common law relationship with H. L. at the time of his death on June 14, 2022.¹ She also says she and H. L. had been living together since February or March 2021. The Appellant applied for a CPP survivor's pension. The Minister of Employment and Social Development refused her application.

[4] The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

What the Appellant must prove

[5] The law says only the survivor of a deceased contributor to the *CPP* is entitled to a survivor's pension.² The *CPP* defines "survivor" as the common law partner or (if there is no common law partner) the married spouse of H. L..³

[6] Under the *CPP*, a common law partner is someone who cohabited with H. L. in a conjugal relationship for at least one year at the time of his death.⁴

[7] The *Canada Pension Plan* does not define "cohabitation in a conjugal relationship." However, the courts have set out factors that are usually relevant to that question. These factors are as follows:⁵

¹ See GD2-75.

² See section 44(1)(d) of the *Canada Pension Plan*.

³ See section 42(1) of the *Canada Pension Plan*.

⁴ See section 2(1) of the *Canada Pension Plan*.

⁵ See *Betts v Shannon*, (2001) CP 11654 (Pension Appeals Board). Although this is not a binding decision, it is persuasive and is frequently cited in Tribunal decisions. It has also been cited in binding

- a) financial interdependence
- b) sexual relationship
- c) common residence
- d) purchasing gifts on special occasions
- e) sharing of household responsibilities
- f) shared use of assets
- g) shared responsibility for children
- h) shared vacations
- i) expectation of mutual dependency
- j) beneficiary of will
- k) beneficiary of insurance policy
- l) where clothing was kept
- m) are for one another when ill, and knowledge of medical needs
- n) communications between the parties
- o) public recognition
- p) attitude and conduct of the community
- q) marital status on various documents

cases such as *Farrell v Canada (Attorney General)*, 2010 FC 34. I note that *McLaughlin v Canada (Attorney General)*, 2012 FC 556 which is often cited for the factors to consider, refers to a list of considerations that is much shorter. On review, those other considerations cover the same ground as the factors from *Betts v. Shannon* (2001) CP 11654 (Pension Appeals Board).

r) funeral arrangements and descriptions

[8] Not all of the above factors are relevant or persuasive in every case. It is not necessary for every factor to point to the same outcome.⁶

[9] So, to succeed in her appeal, the Appellant must prove that she was H. L.'s common law partner at the time of his death. She must prove this on a balance of probabilities (that it is more likely than not to be true).

Matters I have to consider first

I accepted documents filed late

[10] The Appellant filed invoices from her internet service provider after her filing deadline.⁷ At the hearing, she explained they were late because she did not know she could get a copy of the invoices. She only learned this when she called the provider to discuss an unrelated issue which was after her filing deadline. The invoices are admitted because they are relevant to the issue under appeal and new. Although the Appellant technically could have filed them earlier, she didn't know she could get access to them. The invoices didn't delay the proceedings as they were filed before the hearing. There is also no prejudice to the Minister as the Minister's representative attended the hearing, so she had an opportunity to ask the Appellant questions about the invoices and make submissions about them.

[11] Two documents were filed after the hearing, on my request. The first was a copy of the same photos previously filed by the Appellant but with the dates the pictures were taken.⁸ The other is an unredacted copy of the reconsideration file.⁹ I requested both of these documents from the Appellant and the Minister as they are relevant to the issue under appeal, therefore they will be admitted.

⁶ See *Betts v Shannon*, (2001) CP 11654 (Pension Appeals Board), at para. 8.

⁷ See GD10.

⁸ See GD12.

⁹ See GD2R.

Reasons for my decision

[13] I find that the Appellant and H. L. were common law partners. As a result, the Appellant is entitled to a survivor's pension.

[12] To explain my decision, I will:

- a) summarize the Appellant's evidence
- b) summarize the Minister's position
- c) show how the evidence supports that the Appellant is entitled to a survivor's pension.

The Appellant's evidence

– Residence

[13] The Appellant and H. L. were married on April 7, 1977.¹⁰ They divorced on November 16, 1993, at which time the Appellant moved out of their shared residence.¹¹

[14] The Appellant says they started a romantic relationship again, but the Appellant has given inconsistent evidence about when this was. In her notice of appeal, she said a year after the divorce, she and H. L. started living together again as spouses.¹² In written submissions she filed, she said she and H. L. reconciled and started living together again six months after the divorce.¹³

[15] At the hearing, the Appellant initially said she and H. L. lived apart for one year. But later the Appellant said she and H. L. remained friends after the divorce in 1993 and became romantically involved again in 1998 or 1999. She is consistent that they never remarried.

¹⁰ See GD2-83.

¹¹ See GD2-83.

¹² See GD1-1 to GD1-2.

¹³ See GD5-1.

[16] At the hearing, the Appellant said she and H. L. lived separately until 2016 at which point she lost her job, so she moved in with H. L. at a residence on X. The Appellant says she and H. L. bought a three bedroom house together before their divorce. When they divorced, she moved out and H. L. continued residing there. She lived in X with H. L. from 2016 until 2018. At this time, the Appellant said she and H. L. shared a room and a bed.

[17] The Appellant filed a mortgage approval document dated June 6, 2007, showing that she and H. L. were both on the mortgage for the X.¹⁴

[18] She also filed a letter from Economical insurance dated November 23, 2016, which is addressed to her, and the address listed is the X.¹⁵

[19] In 2018, H. L. could no longer afford to pay the mortgage, so they sold the X residence. In support of her testimony, the Appellant filed a CIBC mortgage statement dated June 19, 2018, listing herself and H. L. as the mortgage borrowers for the X.¹⁶ She also filed a CIBC mortgage discharge statement dated September 11, 2018.¹⁷ The borrowers are listed as the Appellant and H. L. and the property is the X. Finally, she filed an invoice from a lawyer's office dated September 12, 2018, which is addressed to herself, and H. L. and their address is the X.¹⁸ She testified that the invoice was for the sale of the X house.

[20] H. L. then bought a two-bedroom condominium on X by himself. Both the Appellant and H. L. moved into the X condominium in 2018. In support of her evidence, the Appellant filed a document titled "Direction re Title" dated September 10, 2018.¹⁹ The document is signed by herself, and H. L. and it lists the X address on X. It states that the Appellant and H. L. are spouses, that H. L. was the only person on title, and

¹⁴ See GD5-6 to GD5-15.

¹⁵ See GD5-19.

¹⁶ See GD5-3.

¹⁷ See GD5-18.

¹⁸ See GD2-38 to GD2-39.

¹⁹ See GD8-1.

that the property was bought for cash. The Appellant said her lawyer created the document in the course of the purchase of the condominium.

[21] The Appellant testified that she lived with the Appellant at the X condominium in X until September or October 2020. Again, the Appellant testified that she and H. L. shared a room and slept in the same bed. In support, she filed a letter from Allstate insurance dated November 27, 2018, addressed to both the Appellant and H. L., and their address is listed as the X.²⁰

[22] In 2014 or 2015, the Appellant submitted an application for subsidized housing. She received a placement at an apartment on X. She moved out of the Appellant's condominium and into the X residence in September or October 2020.

[23] In about February or March 2021, H. L. sold the X condominium. H. L. was planning to buy another condominium in X or X, but he was quite ill and was in and out of the hospital, so instead he moved in with the Appellant at the X in X.

[24] Although they lived in different residences for about six months when the Appellant moved out of the X condominium and into the X residence, the Appellant said she and H. L. remained in a romantic relationship.

[25] The Appellant said H. L. lived with her in X for about one year and two months from February or March 2021 to June 14, 2022, when he passed away. This was a one-bedroom apartment. They shared a room and a bed, except when the Appellant was undergoing chemotherapy. At those times, he slept on the couch.

[26] The Appellant filed several documents to support her evidence that H. L. lived with her at the X in X:

²⁰ See GD2-37.

- In Telcan internet invoices dated February 7, 2021,²¹ March 7, 2021,²² and April 7, 2021,²³ the account holder is listed as H. L. and his address is the X in X.
- In a referral report by Dr. Farooq Khan, dated May 6, 2021, for H. L., his address is listed as the X in X.²⁴
- In an oncology note by Dr. Reingold at X, dated May 7, 2021, Dr. Reingold notes that the referral was because H. L. moved to the X area. It also says that H. L. was using a pharmacy on X in X, and that he will probably need to transition to a new pharmacy in the area.²⁵ The Proof of Death Certificate states that H. L. ultimately died at X.²⁶
- In a Patient Referral Form for Central East Regional Cancer Program, dated May 17, 2021, it notes that H. L. is moving from X to X. The Appellant explained that X referred to the hospital not the Appellant's address. X was the closest hospital to X providing cancer treatment. If H. L. had not moved in with her in X, the Appellant says, he would not have had to change hospitals.
- In a letter from Home and Community Care Support Services, dated July 6, 2023, it says that H. L. was receiving services at the Appellant's address on X.²⁷ The Appellant testified that H. L. received nursing care at her apartment.
- In an undated medical chart from X, H. L.'s address is listed as the X in X.

[27] In her Statutory Declaration of Common law Union, the Appellant said she lived with H. L. from January 1, **2020**, to June 14, 2022.²⁸ In her application for a survivor's

²¹ See GD11-3,

²² See GD10-3.

²³ See GD10-4.

²⁴ See GD1-27.

²⁵ See GD1-31.

²⁶ See GD2-75.

²⁷ See GD1-10.

²⁸ See GD2-44.

pension, the Appellant said she and H. L. started living together on January 1, **2022**.²⁹ The Appellant believes she made an error in the application when she wrote 2022 as the year she and H. L. began living together.

[28] The Appellant testified that it was not true that she lived with H. L. since January 1, 2020, as she had affirmed in the statutory declaration. The Appellant gave several explanations for this incorrect information. Initially she said it was easier, then she said maybe it could be a mistake, and finally she said she didn't know why she put January 1, 2020. She said the correct date she and H. L. lived together is what she testified to at the hearing which was February or March 2021 to the time of his death in June 2022.

– **Financial interdependence**

[29] When they had the X house, the Appellant said they had a joint account. When the X house was sold, they no longer had a joint account, but the Appellant says H. L. gave her access to his account. H. L. was unwell from the time they moved into the X condominium, so the Appellant had authority to withdraw money from his account and pay for groceries, buy things for the house, pay for H. L.'s medication, and buy presents for their grandson.

[30] In support of her evidence, the Appellant filed a CIBC Debit Card Issuance/Maintenance Request form dated May 19, 2021.³⁰ She testified that she thinks this is the form she signed to have access to H. L.'s account. The form is signed by the Appellant only. The account holder is not identified. It is not clear to me that the debit card provided was for H. L.'s account as neither his name nor his signature is on the form.

[31] The Appellant said that H. L. did not have access to her account, because she had no money.

²⁹ See GD2-77.

³⁰ See GD1-24 to GD1-26.

[32] The Appellant says that when she and H. L. resided together in X, he paid the mortgage, utilities, and the groceries. She paid for the phone, internet, and insurance for both cars.

[33] There was no mortgage on the condominium in X. H. L. paid for the maintenance fees. The Appellant again paid for the phone, internet, and car insurance.

– **Household responsibilities**

[34] As H. L. took on more of the financial responsibilities, the Appellant said she did all the household chores like cleaning, grocery shopping, cooking, and outdoor maintenance like cutting the grass and shovelling the snow.

– **Fidelity**

[35] The Appellant says that since she and H. L. resumed their relationship in 2016, they have been exclusive.

[36] It was also a conjugal relationship from 2016 until 2020, after which H. L. became very ill.

– **Expectation of mutual dependency**

[37] The Appellant said that before H. L. became ill, they would do everything together. They would talk about their day, and always ate meals together. H. L. helped the Appellant with finances, and he loved her cooking, so she reciprocated by cooking for him.

– **Caring for deceased**

[38] When H. L. was ill, the Appellant said she took him to his appointments, picked up his medication and ensured he took it, and gave him his needles.

[39] When H. L. became unable to take care of his personal hygiene on his own, the Appellant helped him toilet, bathed him, cleaned his nails, dressed him, massaged him, and fed him.

[40] H. L. was in the hospital for two months prior to his death. The Appellant visited him everyday and stayed there for about eight hours a day. Other times he was in the hospital, she would also visit him daily and stay for about three hours a day.

– **Gifts**

[41] H. L. would give the Appellant gifts on all the holidays like Mother's Day, birthdays, Christmas, and Valentine's Day. He would buy her things like cards, flowers, household products, and once a diamond ring.

[42] H. L. did not care for materials things, rather he preferred a home cooked meal, so the Appellant would cook for him on special occasions.

– **Public recognition**

[43] The Appellant testified that their two children viewed her and H. L. as a couple. Their granddaughter was dropped off every Friday afternoon and she would stay over with them until Sunday evening. The Appellant says their granddaughter understood them to be a couple. The Appellant and deceased's children would also come over on the weekends.

[44] In terms of the public, no one knew they were divorced. They introduced one another as husband and wife.

– **Funeral arrangements**

[45] The Appellant said she made the arrangements for H. L.'s funeral with the help of her son and daughter. She selected the funeral home, bought the flowers, arranged the food, paid for a cultural ceremony called a puja, which also involved cooking and giving a donation, and made arrangements for H. L.'s cremation.

– **Other evidence filed by the Appellant**

[46] The Appellant submitted a number of other documents to demonstrate that she was in a common law relationship with H. L..

[47] She filed H. L.'s continuing power of attorney for property and personal care both dated November 24, 2018, appointing the Appellant as the power of attorney.³¹ In these legal documents, H. L. identifies the Appellant as his spouse.

[48] The Appellant filed H. L.'s will dated November 24, 2018.³² The Appellant was appointed the state trustee and identified as H. L.'s spouse.³³ She was left H. L.'s estate including property and any money in his bank accounts upon his death.³⁴

[49] A letter from X dated September 23, 2020, says that H. L. would benefit from his caregiver, the Appellant, accompanying him to his appointments in order to clarify details of his medical plan and assist with planning around his care.³⁵

[50] An undated life insurance application by H. L. notes that the beneficiary is the Appellant who is identified as his spouse.³⁶

[51] Finally, the Appellant filed several family photos dated February 2021, March 2021, September 2021, February 2022, April 2022, May 2022, and a May 2023 photo which appears to be a ceremony for H. L.'s death.³⁷

– **The Appellant's witness**

[52] The Appellant's friend, D. T. testified. She met both the Appellant and H. L. in March 2021 in a professional capacity. D. T. was a driver for the Children's Aid Society. She attended the residence on X to pick up the Appellant's grandchild. That is where she met both the Appellant and H. L.

[53] The Appellant and D. T. developed a friendship. They became close a few months prior to H. L.'s death.

³¹ See GD2-45 to GD2-46 and GD2-63 to GD2-65.

³² See GD2R-49 to GD2-53.

³³ See GD2R-50.

³⁴ See GD2R-51.

³⁵ See GD1-20 to GD1-21.

³⁶ See GD5-4 to GD5-5.

³⁷ See GD12.

[54] When D. T. attended the X residence, up to three times a week, H. L. was always there. Sometimes the Appellant answered the door or sometimes H. L. did.

[55] D. T. said she understood the Appellant and H. L. to be in a romantic relationship. When she met H. L., he was introduced as the Appellant's spouse. When the Appellant would talk about H. L., it was as a spouse.

[56] D. T. understood H. L. to be residing with the Appellant. She observed H. L. to be receiving nursing care, specifically an IV, at the X residence. He would often be shirtless and sitting on the balcony. D. T. also observed H. L.'s belongings at the X residence including his shoes, sweater, and blanket.

The Minister's position

[57] The Minister's position is that the Appellant and H. L. did not reside together at the time of or the year leading up to his death. Therefore, the Appellant doesn't meet the definition of a survivor. The Minister primarily relies on the Appellant and H. L.'s statements to government bodies that they were divorced or separated.

[58] The Minister points out that the deceased made an application for Old Age Security and Guaranteed Income Security benefits dated February 9, 2022, and he listed his address as X.³⁸ This is the address the Appellant said she resided at from 1993 to 2016, after the divorce and before she began residing with H. L. again. Her son resided there after she left.³⁹ In the application, H. L. also wrote, "I am single and have no spouse"⁴⁰ and indicated his marital status as divorced as of December 17, 1993.⁴¹

[59] In the deceased's application for a CPP pension also dated February 9, 2022, he again says his address is X and his marital status says divorced.⁴²

³⁸ See GD2R-84 to GD2R-92.

³⁹ See GD5-1.

⁴⁰ See GD2R-87.

⁴¹ See GD2R-89.

⁴² See GD2-92 to GD2-98.

[60] In response, the Appellant says if H. L. was residing in X, why was he transferred to a hospital in Oshawa.

[61] The Minister also notes that in an undated CIBC Power of Attorney document the Appellant is listed as an “ex-wife.”⁴³ This is different than the two power of attorney documents noted above. The Appellant says that she wanted to maintain that they were separated on official documents due to her subsidized housing application in which she said she was divorced.

[62] Finally, in the X Death Summary, the Appellant is also referred to as an “ex-wife” when the doctor was discussing a request for an autopsy.⁴⁴

[63] The Minister also questioned the Appellant about how she represented her relationship to the government body through which she got her subsidized housing. She explained that when she put her application in in 2014, she listed her relationship status as divorced. When H. L. moved into the X, the Appellant said she did not update her marital status. Upon questioning from the Minister, the Appellant also indicated that she said she was separated on her taxes from 2016 to 2022.

The Appellant is granted a survivor’s pension

[64] I find that the Appellant was H. L.’s common law partner at the time of his death, and they had cohabited together when he died and for one year prior.

[65] First, I would like to address the Appellant’s credibility. Certain aspects of the Appellant’s testimony did raise credibility concerns. First, she gave different evidence about when she resumed a romantic relationship with H. L. after the divorce. However, I note this is not central to the appeal, as I am only concerned with the year prior to H. L.’s death.

[66] Most concerning was that the Appellant swore a statutory declaration about the dates she and H. L. resided together, that was incorrect. She then provided various

⁴³ See GD1-23.

⁴⁴ See GD1-30.

explanations for this error. This suggests that she does not take oaths or affirmations seriously. I also note that she admitted that she was not truthful to government bodies about her marital status, specifically as it relates to subsidized housing and taxes.

[67] However, the Appellant also filed documents to support various aspects of her evidence. This enhances her credibility and provides documentary proof of the common law relationship. As a result, I accept the Appellant's evidence that she was in a common law relationship and cohabitated with H. L. for at least one year prior to and at the time of his death. Due to the Appellant's credibility concerns, I could not have accepted her evidence alone. Her application is successful because of the documentary evidence she filed.

[68] The following is a list of the evidence provided by the Appellant and the documentary evidence she filed to support her testimony:

- The Appellant testified that she owned the house on X together with H. L. She provided a CIBC mortgage document that supports this dated June 6, 2007.⁴⁵
- The Appellant said she moved back to the X in 2016. She filed a letter from Economical insurance dated November 23, 2016⁴⁶ and an invoice from a lawyer dated September 12, 2018⁴⁷ both of which say her address was on X.
- The Appellant said they sold the X house in 2018. She filed a CIBC mortgage discharge statement dated September 11, 2018, showing herself and H. L. as the borrowers for the X residence in X.⁴⁸
- The Appellant said she and H. L. then moved to his condominium on X. She filed a letter from Allstate insurance dated November 27, 2018, addressed to

⁴⁵ See GD5-6 to GD5-15.

⁴⁶ See GD5-19.

⁴⁷ See GD2-38 to GD2-39.

⁴⁸ See GD5-18.

both the Appellant and H. L., and their address is listed as the X condominium in X.⁴⁹

- The Appellant says H. L. moved in with her in February or March 2021 until his death. Although listed above, it is worth repeating the documentary evidence she filed to support this:
 - The Telcan internet invoices dated February 7, 2021,⁵⁰ March 7, 2021,⁵¹ and April 7, 2021,⁵² which lists the account holder as H. L. and his address as the X in X.
 - The referral report by Dr. Farooq Khan, dated May 6, 2021, for H. L. in which his address is listed as the X in X.⁵³
 - The oncology note by Dr. Reingold at X, dated May 7, 2021, which says the referral was because H. L. moved to the X area.
 - The Patient Referral Form for Central East Regional Cancer Program dated May 17, 2021, which notes that H. L. is moving from X to X, which the Appellant explained was a move from X hospital to the hospital in Oshawa.
 - The letter from Home and Community Care Support Services, dated July 6, 2023, which says that H. L. was receiving services at the Appellant's address on X.⁵⁴
 - The undated medical chart from X, which says H. L.'s address was the X in X.

⁴⁹ See GD2-37.

⁵⁰ See GD11-3,

⁵¹ See GD10-3.

⁵² See GD10-4.

⁵³ See GD1-27.

⁵⁴ See GD1-10.

[69] The Appellant also provided various documents to support that she and H. L. were in a common law relationship. This includes the document titled “Direction re Title” dated September 10, 2018,⁵⁵ which is signed by the Appellant and H. L. and states that the parties are spouses. It also includes the documentary evidence summarized under “Other evidence filed by the Appellant” above including, the two power of attorneys, life insurance application, and H. L.’s Will in all of which he identifies the Appellant as his spouse, the letter from X that says the Appellant is H. L.’s caregiver, the family photos, and the evidence of D. T.

[70] Based on the documentary evidence and the Appellant’s testimony, I accept that she was H. L.’s common law partner since 2016 and they lived together from February or March 2021 up until the time of his death on June 14, 2022. I accept the Appellant’s evidence that she and H. L. shared a room and a bed, she relied on H. L.’s finances to support herself, that she had access to his bank account, and that she contributed to the household by going grocery shopping, cooking, cleaning, and doing the outside maintenance. I also accept that the relationship was exclusive since 2016 and it was a conjugal relationship until H. L. became ill in 2020. I accept that there was mutual dependency and the Appellant cared for H. L. while he was sick. They exchanged gifts or acts of service, and their children and the public regarded them as spouses. I also accept that the Appellant and her children made the funeral arrangements for H. L. This demonstrates the Appellant and H. L. were in a common law relationship.

[71] The Minister has pointed out evidence that contradicts the Appellant’s position, and I have taken it into consideration. The most concerning evidence is H. L.’s OAS/GIS and CPP applications in which he says he is single and lived in X.

[72] The Appellant explained that on official documents she represented herself as divorced because of her subsidized housing application. I have addressed the credibility concerns this raises, but I accept the Appellant’s explanation as it is reasonable. She believed that if she told a government body she was in a relationship, this could jeopardize her subsidized housing status because when she applied, she said she was

⁵⁵ See GD8-1.

divorced. The Appellant had testified that she did not have money and relied significantly on the Appellant to support her financially. Therefore, it makes sense that she would want to maintain her subsidized apartment.

[73] I do not know why H. L. represented himself as single and living in X in correspondence with the government. Perhaps it was also to protect the Appellant's subsidized housing status. However, I can say that in other official documents (two powers of attorney, his will, and his life insurance application), he listed the Appellant as his spouse, and the majority of the evidence demonstrates that H. L. was not living in X but rather in X with the Appellant. Therefore, I find he did not state his real address in his OAS/GIS and CPP applications. This makes it more believable that he also did not state his real marital status.

[74] Overall, I find the majority of the evidence points to the Appellant and the deceased being in a common law relationship and residing together from February or March 2021 to the time of his death.

[75] The Appellant has discharged her onus on a balance of probabilities, therefore she is entitled to a survivor's pension.

H. L.'s hospitalization

[76] I have found that the Appellant and H. L. resided together from February or March 2021 to his death on June 14, 2022.

[77] A letter from Home and Community Care Support Services notes that H. L. was hospitalized for a large majority of that time. It says H. L. was admitted from May 3, 2021, to February 16, 2022, and then again from April 20, 2022, to June 1, 2022.⁵⁶

[78] Two people can cohabit even though they do not live under the same roof.⁵⁷ In this case I find that the Appellant and H. L. could still be common law partners even if medical reasons forced them to live apart. I still find that H. L. lived with the Appellant

⁵⁶ See GD1-10.

⁵⁷ See *Hodge v Canada (Minister of Human Resources Development)*, 2004 SCC 65 at paragraph 42.

from February or March 2021 because when he was not hospitalized, he resided with the Appellant at the X in X.

Conclusion

[79] I find that the Appellant is eligible for a survivor's pension because she was in a conjugal common law relationship with H. L. at the time of his death and for one year prior.

[80] This means the appeal is allowed.

Anita Nathan
Member, General Division – Income Security Section