



Citation: *RM v Minister of Employment and Social Development*, 2024 SST 1003

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:** R. M.

**Respondent:** Minister of Employment and Social Development

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**Decision under appeal:** General Division decision dated May 16, 2024  
(GP-23-2103)

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**Tribunal member:** Kate Sellar

**Decision date:** **August 22, 2024**

**File number:** AD-24-525

## Decision

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

## Overview

[2] The Claimant was born in April 1958. In May 2018, the month after he turned 60 years of age, he began collecting the Canada Pension Plan (CPP) early retirement pension. He had contributed to the CPP for more than 25 years.

[3] The Claimant was 63 years of age in April 2022 when he applied for a CPP disability pension. He stated that he became disabled the month he applied. Among other health concerns, he has ulcerative colitis and heart problems. The Minister of Employment and Social Development (Minister) refused the application.

[4] In July 2023, the Claimant asked Service Canada to review its decision on the post-retirement disability pension (PRDB). In a separate document, he asked the Minister to reconsider its decision on the CPP disability benefit.

[5] The Minister's September 2023 reconsideration decision was only about the Claimant's entitlement to the PRDB. It stated that the Claimant wasn't entitled to this benefit because he didn't have enough earnings and contributions in the relevant period.

[6] The Claimant stated that he hadn't qualified because an employee with Service Canada had given him incorrect information. He said that this person advised him to change his tax returns to meet "basic CPP exemption requirements." However, even with the changes he made, the Claimant didn't have enough valid contributions to the CPP to qualify for the PRDB.

[7] The Claimant appealed to this Tribunal. The General Division dismissed the Claimant's appeal. The General Division decided that:

- the Claimant wasn't eligible for the CPP disability pension because he applied almost four years after he started collecting his CPP retirement pension;<sup>1</sup> and
- the Claimant wasn't entitled to the PRDB because he didn't have the required contributions in the relevant 6 years.<sup>2</sup>

[8] The General Division decision explains that the Claimant understood he wasn't eligible for either the CPP disability pension or the PRDB.<sup>3</sup> The Claimant was alleging an administrative error by Service Canada for which he wanted a remedy.

## Issues

[9] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error?
- b) Does the application set out evidence that wasn't presented to the General Division?

## I'm not giving the Claimant permission to appeal

[10] I can give the Claimant permission to appeal if the application raises an arguable case that the General Division:

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<sup>1</sup> See paragraphs 15 to 19 in the General Division decision.

<sup>2</sup> See paragraphs 20 to 22 in the General Division decision.

<sup>3</sup> See paragraphs 19 and 22 in the General Division decision.

- 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.<sup>4</sup>

[11] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.<sup>5</sup>

[12] 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.**

[13] The Claimant argues that he would have been able to collect the PRDB for a short time if he hadn't been badly advised by an employee at Service Canada. He says he has sufficient documentation to support that the Service Canada made an error, and that therefore the Minister should address it.<sup>6</sup>

[14] The Claimant hasn't raised an arguable case for an error by the General Division. He continues to argue that the advice he got from Service Canada amounts to administrative error. As the General Division explained, this Tribunal doesn't have the ability to address those allegations about administrative error.<sup>7</sup>

[15] I cannot grant permission to appeal the General Division decision based on allegations that Service Canada made an error. I must focus on whether the General Division might have made an error. Since the Claimant hasn't raised any arguable case that the General Division made an error, I can't give him permission to appeal.

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<sup>4</sup> See section 58.1(a) and (b) in the *Department of Employment and Social Development Act* (Act).

<sup>5</sup> See section 58.1(c) in the Act.

<sup>6</sup> See AD1-1 and 2.

<sup>7</sup> See paragraphs 26 and 27 in the General Division decision.

[16] As I understand it from my review of the file (and the recording of the hearing at the General Division), the Claimant isn't challenging the findings or the analysis from the General Division. He isn't arguing that the General Division failed to provide him with a fair process.

[17] As was the case at the General Division, the issue about a possible error by Service Canada need to be addressed with Service Canada directly, rather than with the Tribunal.<sup>8</sup>

### **There's no new evidence.**

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

[19] I've reviewed the record. I'm satisfied that the General Division didn't ignore or misunderstand any important evidence.<sup>9</sup> If the Claimant wishes to raise administrative error, he needs to do that directly with the Minister through Service Canada.

### **Conclusion**

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

Kate Sellar  
Member, Appeal Division

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<sup>8</sup> See section 66(4) of the *Canada Pension Plan* (CPP).

<sup>9</sup> For more on this type of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.