



Citation: *WO v Minister of Employment and Social Development*, 2024 SST 1114

**Social Security Tribunal of Canada  
General Division – Income Security Section**

## Decision

**Appellant:** W. O.  
**Representative:** K. J.  
**Respondent:** Minister of Employment and Social Development

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**Decision under appeal:** Minister of Employment and Social Development reconsideration decision dated May 8, 2024 (issued by Service Canada)

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**Tribunal member:** James Beaton  
**Type of hearing:** Teleconference  
**Hearing date:** September 3, 2024  
**Hearing participant:** Appellant's representative  
**Decision date:** September 4, 2024  
**File number:** GP-24-1068

## Decision

[1] The appeal is dismissed.

[2] The Appellant, W. O., isn't eligible for the orphan's benefit (also known as the surviving child's benefit) from November 2023 to the date of this decision. This decision explains why I am dismissing the appeal.

## Overview

[3] The Appellant's father passed away in 2016.<sup>1</sup> As a result, the Appellant was receiving an orphan's benefit under the Canada Pension Plan.

[4] The Appellant turned 18 years old in November 2023.<sup>2</sup> To continue receiving the benefit after turning 18, the Appellant must be in full-time attendance at a school or university.<sup>3</sup>

[5] The Minister of Employment and Social Development (Minister) decided that the Appellant wasn't in full-time attendance at a school or university. So it stopped paying him the benefit. The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division. The Appellant's mother represented him in these proceedings.

## What I have to decide

[6] I have to decide if the Appellant is eligible for the orphan's benefit from November 2023 to the date of this decision.

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<sup>1</sup> See GD2-9.

<sup>2</sup> See GD2-5.

<sup>3</sup> See sections 44(1)(f) and 76(2) of the *Canada Pension Plan*, as well as the definitions of "orphan" and "dependent child" in section 42(1).

## Reasons for my decision

[7] The Appellant isn't eligible for the orphan's benefit from November 2023 to the date of this decision because he hasn't proven that he is in full-time attendance at a school or university.

[8] The Appellant is participating in an electrician apprenticeship through the Ontario Ministry of Labour, Immigration, Training and Skills Development (Ontario Ministry). The Appellant will complete 8,500 hours of on-the-job training over a period of up to 5 years under the supervision of X.<sup>4</sup> He will also complete classroom work organized by the Ontario College of Trades. According to the representative, the classroom work will be offered in three separate terms, possibly by different educational institutions. The first term runs from October 7 to December 6, 2024, and is offered by Mohawk College.<sup>5</sup>

[9] Section 66(1) of the *Canada Pension Plan Regulations* (Regulations) says full-time attendance at a school or university means "full-time attendance at a school, college, university or other educational institution that provides training or instruction of an educational, professional, vocational or technical nature ..."

[10] The Regulations require an applicant to file two declarations to support their application:<sup>6</sup>

- 1) a declaration signed by a responsible officer of the institution, certifying to the child's enrolment in a course requiring full-time attendance at a school or university (section 67(a))
- 2) a declaration of full-time attendance signed by the child (section 67(b))

[11] I explained this in a letter to the Appellant dated July 17, 2024.<sup>7</sup>

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<sup>4</sup> See GD4-3.

<sup>5</sup> See GD4-241.

<sup>6</sup> This requirement is explained more in cases from the Tribunal's Appeal Division. See *Minister (Employment and Social Development) v LC*, 2023 SST 1245; and *Minister (Employment and Social Development) v AR*, 2023 SST 1279. These cases aren't binding on me, but I find them persuasive.

<sup>7</sup> See GD3.

[12] The issue in this appeal is the **first declaration**. The Appellant and his representative filed several documents, but I find that none of them fulfils the requirement of section 67(a).

[13] The Appellant's representative filed an email exchange between her and an employee of the Ontario Ministry.<sup>8</sup> The representative asked the Ontario Ministry to sign section C of a form. She was probably referring to section C of the Declaration of Attendance at School or University form. The employee replied (my emphasis):

Apprentices are registered in their trade with the [Ontario] Ministry; however, they do not attend in-class training directly through the Ministry, and **the Ministry itself does not serve as an educational institution** for this program. Apprentices will undergo in-class training periodically throughout their apprenticeship but are not considered to be enrolled in classes over the entirety of their registration period. In-class training is not conducted by the Ministry as these classes are delivered by recognized training delivery agencies (typically Colleges). ... [If the Appellant] is not currently attending in-class training with a recognized institution he would not be considered as a full-time student for Ministry purposes and is considered employed as an apprentice awaiting in-class training. I cannot speak on the specifics of the CPP program or Service Canada's requirements ...

[14] This email exchange doesn't constitute a signed declaration of full-time attendance at an educational institution. In fact, it illustrates that the Ontario Ministry doesn't consider itself to be an educational institution that provides training or instruction. I agree. The Ontario Ministry's role here is merely to oversee and regulate apprenticeship training in the province. At the hearing, the Appellant's representative also agreed that the Ontario Ministry isn't an educational institution.

[15] The Appellant filed a Declaration of Attendance at School or University.<sup>9</sup> It is only signed by the Appellant. It isn't signed by an educational institution.

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<sup>8</sup> See GD4-243 and 244.

<sup>9</sup> See GD2-28 to 31.

[16] The Appellant filed a Training Agreement to which the Appellant and X are parties.<sup>10</sup> A representative of the Ontario Ministry also signed the Training Agreement.

[17] Even if I considered the Ontario Ministry to be an educational institution, the Training Agreement doesn't certify to the Appellant's enrolment in a course requiring full-time attendance at a school, college, university or other educational institution. The Appellant's representative urged me to find that 8,500 hours of training over 5 years is equivalent to full-time attendance. I can't make that finding. It is up to the Ontario Ministry to specify the Appellant's status as full-time or otherwise.<sup>11</sup>

[18] The Appellant filed materials that outline the educational requirements for an electrician apprenticeship in Ontario.<sup>12</sup> These materials aren't declarations of the Appellant's full-time attendance at a school, college, university or other educational institution.

[19] The Appellant filed a letter from X confirming his sponsorship.<sup>13</sup> X is an important component of the Appellant's apprenticeship, but it isn't an educational institution like a school, college or university. It is a private business whose primary purpose is to provide electrical services, not training or instruction to prospective electricians. Again, the Appellant's representative agreed at the hearing that X isn't an educational institution.

[20] The Appellant filed confirmation of his payment for and enrolment in courses at Mohawk College.<sup>14</sup> This confirmation isn't signed by anyone, nor does it specify that the Appellant will be a full-time student there.

[21] In summary, the Appellant's application for the orphan's benefit doesn't fulfil section 67(a) of the Regulations.

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<sup>10</sup> See GD2-46 to 49.

<sup>11</sup> See *Minister (Employment and Social Development) v LC*, 2023 SST 1245; and *Minister (Employment and Social Development) v AR*, 2023 SST 1279.

<sup>12</sup> See GD4-4 to 240.

<sup>13</sup> See GD4-3.

<sup>14</sup> See GD4-241 and 242.

[22] The Appellant’s representative argued that the orphan’s benefit excludes apprenticeship students in favour of students who attend a traditional university or college program. But the law doesn’t necessarily exclude apprenticeship students from qualifying for the benefit. My decision isn’t based on the fact that the Appellant is doing an apprenticeship. It is based strictly on the fact that the Appellant hasn’t provided a document that fulfils section 67(a) of the Regulations. I don’t need to decide whether an apprenticeship student could theoretically qualify for the orphan’s benefit.

## **Other matters**

### **I accepted some late documents**

[23] On the day of the hearing, the Minister filed written submissions. I didn’t accept them, because they were late. The Minister gave no reason why it could not file its submissions on time. The Minister never asked for an extension. Accepting the late submissions would be unfair to the Appellant.<sup>15</sup>

[24] At the same time, the Minister provided a copy of a questionnaire completed by the Appellant on August 9, 2024, and received by the Minister on August 16, 2024.<sup>16</sup> I accepted this document because it was relevant to the issue I had to decide. It was new and could not have been filed much earlier. Accepting the document wasn’t unfair to the Appellant because the Appellant had already seen the document—he filled it out. I drew the Appellant’s representative’s attention to the document at the hearing. She was already aware that the Appellant had completed a questionnaire.

## **Conclusion**

[25] I find that the Appellant isn’t eligible for the orphan’s benefit from November 2023 (when he turned 18) to the date of this decision.<sup>17</sup>

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<sup>15</sup> Section 42(2) of the *Social Security Tribunal Rules of Procedure* (Rules) sets out what factors I must consider when deciding whether to accept late evidence. Under section 8(5) of the Rules, I can apply these factors to late submissions (arguments) as well, even though these aren’t considered evidence. Section 5 of the Rules defines “evidence.”

<sup>16</sup> See GD2R-29 and 30.

<sup>17</sup> Section 2(2) of the *Canada Pension Plan* says the Appellant is deemed to turn 18 on December 1, 2023, so he is still eligible for the orphan’s benefit for November 2023.

[26] This means the appeal is dismissed.

James Beaton  
Member, General Division – Income Security Section