



Citation: *BL v Minister of Employment and Social Development*, 2024 SST 1223

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: B. L.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated June 17, 2024
(GP-24-747)

Tribunal member: Kate Sellar

Decision date: **October 11, 2024**

File number: AD-24-536

Decision

[1] I'm refusing to give the Claimant, B. L., permission to appeal. This means that her appeal of the General Division decision won't go ahead to the next step. These are the reasons for my decision.

Overview

[2] The Claimant's husband died on April 20, 2018. On February 8, 2024, she applied for the allowance for the survivor under the *Old Age Security Act* (OAS). As the General Division explained, a person is eligible for this allowance if they:

- are age 60 to 64;
- meet the residency requirements;
- are the surviving spouse of the deceased; and
- have an annual income below a certain amount.¹

[3] Except in limited situations, a person must apply for the benefit. They don't get it automatically.

[4] The Minister of Employment and Social Development (Minister) approved the Claimant's application with an effective date of March 2023. The Claimant appealed the Minister's decision to this Tribunal. She wanted payments going back to November 2019 (she turned 60 in October 2019).

[5] The General Division dismissed the Claimant's appeal, finding that the Claimant wasn't eligible for the allowance earlier than March 2023. The General Division explained that the OAS Act states that an allowance cannot be paid more than 11

¹ See sections 2, 19, and 21 of the *Old Age Security Act* (OAS Act). See also section 11 of the *Old Age Security Regulations* (the OAS Regulations).

months before a person applies.² The Claimant applied in February 2024. Eleven months before that was March 2023.

Issues

[6] The issues in this appeal are:

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

I'm not giving the Claimant permission to appeal

[7] 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.³

[8] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.⁴

[9] Since the Claimant hasn't raised an arguable case and hasn't set out new evidence that relates to the appeal, I must refuse permission to appeal.

² See paragraph 7 in the General Division decision, quoting from section 21(9)(a) of the OAS Act.

³ Section 58.1(a) and (b) in the *Department of Employment and Social Development Act (Act)*.

⁴ Section 58.1(c) of the Act.

There's no arguable case that the General Division made an error that would justify giving the Claimant permission to appeal.

[10] The Claimant argues that the General Division made an error by failing to start her allowance for the survivor earlier. She is concerned that the government isn't doing enough to help seniors who need financial assistance, and that the government is stealing from her and behaving in an unethical manner.⁵

[11] The General Division explained that it has the power to review a reconsideration decision from the Minister. The Minister's reconsideration decision in this case was about the Claimant's February 2024 application.⁶ On that application, the General Division found that the Claimant received "all of the back payments that the law allows."⁷ The OAS Act says that an allowance cannot be paid more than 11 months before a person applied. The Claimant applied in February 2024, so eleven months before that was March 2023.⁸

[12] The General Division explained that it cannot make a different decision and state that the Claimant is eligible for payment any earlier based on her lack of knowledge about the allowance, or about any error she says the Minister might have made in giving her information about benefits.⁹

[13] The Claimant hasn't set out any possible error by the General Division that would allow me to give her permission to appeal. I understand why she needs the income. However, the Tribunal must make decisions that are consistent with the law. The General Division explained what the law says about when the allowance can start, and then applied that law to the Claimant's application. The Claimant hasn't raised an arguable case for an error that would justify giving her permission to appeal.

⁵ See AD1-6.

⁶ The application is at GD2-3, and the reconsideration letter is at GD2-18.

⁷ See paragraph 7 in the General Division decision.

⁸ See section 21(9)(a) of the OAS Act.

⁹ See paragraphs 8 to 12 in the General Division decision.

The Claimant didn't provide any new evidence that relates to an issue on appeal.

[14] The Claimant provided a piece of new evidence, but it doesn't relate to an issue on appeal.

[15] The Claimant provided a checklist from the funeral home that states that the Claimant would make a CPP survivor's benefit and then application for the CPP children's benefits.¹⁰ The item "make application for Old Age Security Allowance for the Survivor" is not checked off.

[16] She says the General Division should have considered that in 2018, there was a checklist for the survivor that she says the funeral home gave to Service Canada that stated that "OAS was notified."¹¹

[17] This document doesn't relate to an issue on appeal. It's not evidence in support of an application for the allowance filed before February 2024. It is a to-do list that was created outside of the application process. The application for the allowance that is before this Tribunal is from February 2024. That's the application that the Tribunal has the power to make decisions about.

[18] There's nothing about this document that could lead the Tribunal to make a different decision and find that an application was actually made earlier and that a reconsideration of that application was refused. Accordingly, the document isn't related to the appeal and cannot form the basis for giving the Claimant permission to appeal.

[19] I've reviewed the record.¹² I'm satisfied that the General Division didn't ignore or misunderstand any important evidence in this case that could have impacted the outcome for the Claimant.

¹⁰ See AD1-2 and 3.

¹¹ See AD1-4.

¹² Reviewing the record in a case like this is consistent with the Federal Court's decision in *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

[20] The Claimant says that laws are made to be broken and that the government has stolen her money. She wonders how much of the current CPP system truly operates in service to Canadians. She has explained that her financial circumstances are profoundly serious, and that she is homeless.

[21] The start date for the allowance is a significant and serious source of frustration and anger for the Claimant. However, the Tribunal cannot refuse to apply the law about when the allowance starts in the Claimant's case.

Conclusion

[22] I've refused to give the Claimant permission to appeal the General Division decision. This means that his appeal of the General Division will not proceed.

Kate Sellar
Member, Appeal Division