



Citation: *BL v Minister of Employment and Social Development*, 2024 SST 1224

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

Decision

Appellant: B. L.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development reconsideration decision dated April 17, 2024 (issued by Service Canada)

Tribunal member: James Beaton

Type of hearing: In person

Hearing date: June 17, 2024

Hearing participant: Appellant

Decision date: June 17, 2024

File number: GP-24-747

Decision

[1] The appeal is dismissed.

[2] The Appellant, B. L., isn't eligible for the allowance for the survivor earlier than March 2023. This decision explains why I am dismissing the appeal.

Overview

[3] The Appellant's husband died on April 20, 2018.¹ On February 8, 2024, she applied for the allowance for the survivor.² A person is eligible for this benefit if they:

- are age 60 to 64
- meet the residency requirements
- are the surviving spouse of the deceased
- have an annual income below a certain amount³

[4] Except in limited situations (which don't apply here),⁴ a person must apply for the benefit. They don't get it automatically.

[5] The Minister of Employment and Social Development approved the Appellant's application with an effective date of March 2023.⁵ The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division because she wants payments going back to November 2019 (she turned 60 in October 2019).⁶

What I have to decide

[6] I have to decide whether the Appellant is eligible for the allowance for the survivor earlier than March 2023.

¹ See GD2-8.

² See GD2-3 to 6.

³ These requirements are set out in the *Old Age Security Act* (particularly section 21) and the *Old Age Security Regulations*.

⁴ These exceptions are if the deceased and the surviving spouse made a joint application for the allowance before the deceased died, or if the surviving spouse already received the allowance in a previous year. See sections 21(4), (5), and (5.1) of the *Old Age Security Act*.

⁵ See GD2-9 to 11.

⁶ See GD1.

Reasons for my decision

[7] The Appellant isn't eligible for the allowance for the survivor earlier than March 2023. Section 21(9)(a) of the *Old Age Security Act* says an allowance **cannot** be paid more than 11 months before a person applied. The Appellant applied in February 2024. Eleven months before that was March 2023. So she has already received all of the backpayments that the law allows.

[8] The Appellant says she didn't know about the allowance for the survivor. She thinks the Canada Revenue Agency should have told her that she was eligible when she filed her taxes. She says she is in financial need and that the law is unjust.

[9] I sympathize with the Appellant. However, the Canada Revenue Agency doesn't administer the allowance for the survivor. That benefit is administered by Service Canada, which is represented by the Minister. The Canada Revenue Agency and Service Canada are separate government entities.

[10] Furthermore, section 26.2 of the *Old Age Security Act* says the Minister **may** invite people to apply for benefits. It doesn't say the Minister **must** do this. The Federal Court says the government isn't required to notify Canadians of the benefits for which they might be eligible.⁷

[11] I don't have the power to change the law. I must apply the law as it is written. I also don't have the power to grant the Appellant benefits based on financial hardship.⁸

[12] I understand that the Minister is investigating whether it gave the Appellant wrong information or made an administrative error that affected her benefits.⁹ My decision doesn't impact that investigation. The investigation should continue. If the Appellant disagrees with the outcome of that investigation, she can appeal to the Federal Court through a process called judicial review. Her appeal would not be to this Tribunal.

⁷ See *Lee v Canada (Attorney General)*, 2011 FC 689 at paragraph 72.

⁸ See *Miter v Canada (Attorney General)*, 2017 FC 262.

⁹ See GD8.

Conclusion

[13] I find that the Appellant isn't eligible for the allowance for the survivor earlier than March 2023.

[14] This means the appeal is dismissed.

James Beaton
Member, General Division – Income Security Section