



Citation: *KP v Minister of Employment and Social Development and MP*, 2024 SST 1381

Social Security Tribunal of Canada General Division – Income Security Section

Decision

Appellant: K. P.

Respondent: Minister of Employment and Social Development

Added Party: M. P.

Decision under appeal: Minister of Employment and Social Development reconsideration decision dated October 27, 2023 (issued by Service Canada)

Tribunal member: Connie Dyck

Type of hearing: Teleconference

Hearing date: June 27, 2024

Hearing participants: Appellant
Respondent's representative
Added Party

Decision date: ~~June 28, 2024~~ **July 2, 2024**

File number: GP-23-1858

Decision

[1] The appeal is dismissed.

[2] The Appellant, K. P., isn't eligible for a Canada Pension Plan (CPP) death benefit. The Minister has correctly paid the death benefit to the Added Party. This decision explains why I am dismissing the appeal.

Overview

[3] The Added Party is the daughter of W. P. (contributor) who died on June 4, 2023.¹ She applied for a CPP death benefit on June 15, 2023.² She said the contributor had no will and she paid for the funeral expenses.³ The Minister paid the death benefit to her.

[4] The ~~Added Party~~ Appellant also applied for a death benefit.⁴ She said she was the next-of-kin (spouse) of the contributor. The Minister said it had already paid the benefit to another party who met the requirements. This meant the ~~Added Party~~ Appellant would not receive the death benefit.

[5] The Minister upheld their decision on reconsideration. The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

What I must decide

[6] I must decide if the death benefit was correctly administered.

Reasons for my decision

[7] The death benefit is a one-time payment that is made after the death of a CPP contributor, provided they made enough contributions to the CPP.⁵

¹ GD2-15.

² GD2-16.

³ GD2-22.

⁴ GD2-4.

⁵ See section 44(a)(c) of the *Canada Pension Plan*.

[8] The Minister followed the rules in the *Canada Pension Plan* when it used its power to pay the death benefit to the Added Party.

[9] The *Canada Pension Plan* sets out who is entitled to a death benefit when someone dies. By default, the death benefit is payable to the estate or succession of the deceased contributor.⁶ But there are three exceptions to this general rule. In the following three situations, the rule **does not** apply:⁷

- a) After making reasonable inquiries, the Minister finds that there is no estate.
- b) The estate didn't apply within 60 days of the contributor's death.
- c) The amount of the death benefit is less than the "prescribed amount."

[10] The Minister made reasonable inquiries to determine if the contributor has an estate. In this case, in their applications for the death benefit, both the Appellant and the Added Party said ~~there~~ the contributor had no Will. This means there was no estate.

[11] Because the Minister made reasonable inquiries and there was no estate, the Minister **may** pay the death benefit to the individual or institution who paid, or is responsible for paying, the funeral expenses—but only up to the amount of the funeral expenses.⁸ Then, if the death benefit is greater than the funeral expenses, the rest of the funds may be paid to the contributor's survivor or next of kin.⁹ In this case, the funeral service agreement shows the total of the funeral was more than \$2,500.¹⁰

[12] The Minister's power to pay the death benefit to someone other than the estate or succession of the contributor is **discretionary** rather than mandatory. This means the Minister may use this power, but it doesn't have to. If it uses this power, it must act judicially. In other words, the Minister must not:

- act in bad faith

⁶ See sections 44(1)(c) and 71(1) of the *Canada Pension Plan*.

⁷ See section 71(2) of the *Canada Pension Plan* and section 64(1) of the *Canada Pension Plan Regulations* (Regulations).

⁸ See sections 64(1) and (2) of the Regulations.

⁹ See section 64(3) of the Regulations.

¹⁰ GD5-26 and GD5-29.

- act for an improper purpose or motive (the wrong reason)
- consider an irrelevant factor
- ignore a relevant factor
- discriminate¹¹

[13] The Appellant submitted that the Minister acted too hastily in paying the death benefit. She said the Added Party didn't have the authority to sign a contract with the funeral home. The money to pay the funeral came from an account jointly held with the contributor and another daughter. The Appellant said she was appointed administrator of the estate several months later. As I explained at the hearing, the Tribunal doesn't have jurisdiction over civil matters. Further, the Minister paid the death benefit according to the CPP legislation. If there had been an estate at the time of the applications or at the time of death of the contributor, the Minister would have waited 60 days to allow the estate time to apply. However, in this case, there was no estate then.

[14] The Minister must make inquiries to determine if there was an estate and requires proof of who paid for the funeral. The Minister fulfilled both of these duties.

[15] The Minister acted judicially. There is no evidence that the Minister acted in bad faith, or for an improper purpose or motive, or in a discriminatory way. There is no evidence that it considered an irrelevant factor or ignored a relevant factor. There was no evidence before the Minister at the time to suggest that the Added Party had not actually paid the funeral expenses on the invoice it provided, or that someone else (like the Appellant) had paid some of the funeral expenses as well.

[16] When the Minister has properly paid the death benefit, as it did here, it isn't required to pay the death benefit to anyone else who might apply later.¹²

¹¹ See *Canada (Attorney General) v Uppal*, 2008 FCA 388; and *Canada (Attorney General) v Purcell* [1996] 1 FC 644.

¹² See section 71(3) of the Act.

Conclusion

[17] I find that the Appellant isn't eligible for the death benefit. The Minister was correct to pay the death benefit to the Added Party.

[18] This means the appeal is dismissed.

Connie Dyck
Member, General Division – Income Security Section