



Citation: *ZB v Minister of Employment and Social Development*, 2024 SST 1522

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant: Z. B.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated April 30, 2024
(GP-23-2072)

Tribunal member: Kate Sellar

Decision date: **December 11, 2024**

File number: AD-24-742

Decision

[1] I've granted the Claimant, Z. B., an extension of time to apply to the Appeal Division. However, I've refused to give her leave (permission) to appeal. The appeal will not proceed. These are the reasons for my decision.

Overview

[2] In September 1988, the Claimant married M. H. M. H. (the deceased) died in February 2023. In May 2023, the Claimant applied for a Canada Pension Plan (CPP) death benefit and survivor's pension. The Minister of Employment and Social Development (Minister) refused her applications. The Claimant appealed to this Tribunal.

[3] The General Division dismissed the appeal. The General Division found that the deceased had 9 years of contributions to the CPP, so the Claimant couldn't qualify for either the CPP death benefit or the CPP survivor's pension.

Issues

[4] The issues in this appeal are:

- a) Was the application to the Appeal Division late?
- b) If so, should I extend the time for filing the application?
- c) Has the Claimant raised an arguable case that the General Division made an error that would justify giving her permission to appeal?
- d) Does the application set out evidence that wasn't presented to the General Division?

Analysis

The application was late

[5] The General Division decision is dated April 30, 2024. The Tribunal sent the decision to the Claimant by email on May 1, 2024. This is the date the General Division communicated its decision to the Claimant. The Claimant wrote to the Tribunal on July 30, 2024. The Tribunal acknowledged that letter and provided the necessary information about appealing to the Appeal Division.

[6] Claimants have 90 days from the day the General Division communicates its decision to appeal to the Appeal Division.¹ The Claimant appealed on November 4, 2024, more than 90 days after the General Division communicated the decision. So, the Claimant's application was late.

I'm extending the time for filing the application

[7] When deciding whether to grant an extension of time, I have to consider whether the Claimant has a reasonable explanation for why the application is late.²

[8] The Claimant explained that English is not her first language and that she needed to secure help from someone to help her to draft the appeal.³ While it may have been best to instead provide a basic appeal in the meantime, the Claimant's delay in securing that help is reasonable under the circumstances.

[9] Since the Claimant has provided a reasonable explanation for why the application is late, I am granting the extension of time.

[10] Now I must decide whether I can give the Claimant permission to appeal.

¹ See section 57(1)(b) of the *Department of Employment and Social Development Act* (Act).

² It says this in section 27(2) of the *Social Security Tribunal Rules of Procedure* (Rules).

³ See AD1B-1.

I'm not giving the Claimant permission to appeal

[11] 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.⁴

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

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

– The Claimant hasn't raised an arguable case for an error.

[14] The Claimant requests payment of the deceased's retirement pension from the time he turned 65 in 2011 until the time his pension payments actually started effective July 2016.⁶

[15] The Claimant hasn't raised an arguable case for any error by the General Division. The General Division's decision is about access to the CPP death benefit and the CPP survivor's pension.⁷ The decision explains that the deceased needed 10 years of contributions in order for the Claimant to receive for those benefits. He had 9 years of contributions, so the Claimant cannot receive those benefits.⁸

⁴ See section 58.1(a) and (b) in the Act.

⁵ See section 58.1(c) of the Act.

⁶ See AD1-9, AD1C-1 and following.

⁷ See paragraph 2 and following in the General Division decision.

⁸ See paragraphs 11 and 12 in the General Division decision.

[16] I can only review the current General Division decision to decide whether the Claimant can have permission to appeal that decision.⁹

[17] The Tribunal wrote to the Claimant to confirm whether there was anything she wanted to argue about whether the General Division made any error in its decision about the CPP death benefit or the CPP survivor's pension.¹⁰ However, the Claimant didn't provide any further evidence or argument on that issue.¹¹

[18] Accordingly, the Claimant hasn't raised an arguable case for any error by the General Division in its decision.

– **No new evidence that can form the basis for permission to appeal**

[19] The Claimant hasn't provided any new evidence that could be arguably relevant to the question of her eligibility for the CPP death benefit or the CPP survivor's pension. Accordingly, I cannot grant her permission to appeal based on new evidence, either.

[20] I've reviewed the record.¹² I'm satisfied that there's no arguable case that the General Division overlooked or misinterpreted any other important evidence that could impact the outcome for the Claimant.

[21] I understand the reasons the Claimant hasn't been able to pursue her concerns about the deceased's retirement pension in a timely way, but I cannot review that issue in this appeal. This appeal is about the CPP survivor's pension and the CPP death benefit. The General Division found that the deceased didn't have sufficient contributions to the CPP for the Claimant to receive those benefits. I see no arguable case for an error in that decision.

⁹ See section 55 of the Act.

¹⁰ Sending this kind of letter to the Claimant is consistent with the requirements set out in *Bossé v Canada (Attorney General)*, 2015 FC 1142.

¹¹ The Claimant responded with information about why she was late, and further argument about the retirement pension, see AD1B and AD1C.

¹² For more on this kind of review, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

Conclusion

[22] I granted the Claimant an extension of time for her late appeal. However, I refused to give the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division