



Citation: *HB v Minister of Employment and Social Development*, 2025 SST 263

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: H. B.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated May 7, 2024 (issued by
Service Canada)

Tribunal member: Virginia Saunders

Type of hearing: Teleconference

Hearing date: October 30, 2024

Hearing participants: Appellant
Respondent's representative

Decision date: March 14, 2025

File number: GP-24-1360

Decision

[1] The appeal is dismissed.

[2] The Appellant, H. B., was not eligible for Canada Pension Plan (CPP) post-retirement benefits as of 2019. The amount of her 2018 post-retirement benefit is reduced. The benefits she got that were based on CPP contributions made after February 2017 are considered an overpayment (debt) that she owes the Minister of Employment and Social Development (Minister). I don't have the power to forgive that debt.

[3] This decision explains why I am dismissing the appeal.

Overview

[4] This appeal is about the CPP post-retirement benefit and what happens if a person wants to stop contributing to the CPP.

– The CPP post-retirement benefit

[5] With some exceptions, anyone from age 18 to 70 who has income from employment or self-employment in Canada must contribute to the CPP.¹

[6] A person between ages 60 and 64 who is working and receiving a CPP retirement pension still has to contribute to the CPP. They get their usual retirement pension, but they also get a post-retirement benefit.

[7] The post-retirement benefit is based on CPP contributions the person makes after they start getting the retirement pension.² There is a separate benefit for each year, based on the person's contributions in the previous year. The amount is adjusted each year to reflect changes to the cost of living.

¹ See sections 8 and 10 of the *Canada Pension Plan*.

² See sections 44(1)(g) and 76.1 of the *Canada Pension Plan*.

– **Electing to stop making CPP contributions**

[8] A person between ages 65 and 70 who is working and receiving a CPP retirement pension may elect to stop making CPP contributions. They do this by filling out a form and giving it to their employer.³

[9] If a person elects to stop contributing to the CPP before they have made any post-retirement contributions, they won't get a post-retirement benefit. If they have already made some post-retirement contributions, they will get benefits based on those contributions.

– **The Appellant elected to stop contributing**

[10] The Appellant turned 60 on January 16, 2012. She applied for a CPP retirement pension in March 2012, and she began receiving the pension the following month. She continued working and contributing to the CPP. As a result, she received CPP post-retirement benefits in addition to her retirement pension, starting in 2013.

[11] When the Appellant turned 65, she decided that it didn't make sense for her to contribute to the CPP any longer, although she was still working. She signed an election to stop contributing on January 31, 2017.⁴ The Minister didn't have a copy of the form to show when it was filed, but the Appellant doesn't dispute that she signed the form and gave it to her employer.⁵

[12] Despite this, the Appellant's employer continued to deduct CPP contributions from her pay, and the Minister paid her post-retirement benefits based on those contributions. The Appellant didn't notice, in part because the benefits weren't deposited into her bank account as separate amounts. They were combined with her regular retirement pension.

³ See sections 12(1)(c) and 12 (1.1) of the *Canada Pension Plan*, and section 83.1 of the *Canada Pension Plan Regulations*.

⁴ See GD5-10.

⁵ She said this at the hearing.

[13] In March 2024, the Canada Revenue Agency (CRA) told the Minister about the Appellant's election. No one knows why it took so long for this to happen. The Minister provided no explanation. The Appellant couldn't get any information from the CRA.

[14] The Minister decided that, because of her election, the Appellant's CPP contributions after February 2017 should not have counted towards her post-retirement benefits. The benefits could only be based on her contributions up to February 2017. The Minister demanded the Appellant repay \$3,573.87, which it calculated was the difference between what she actually received from January 2018 up to March 2024, and what she would have received if her election had been processed and she had not contributed to the CPP after February 2017.⁶

[15] The Appellant appealed to the Social Security Tribunal's General Division.

[16] The Appellant says she didn't ask to receive the post-retirement benefits. Requiring her to repay it will cause financial hardship.⁷

[17] The Minister says the Appellant elected not to pay CPP contributions as of February 2017, so she wasn't entitled to any post-retirement benefits calculated on contributions after that date.⁸

What I have to decide

[18] I have to decide what post-retirement benefits the Appellant was eligible to receive from 2018 and after.

Matters I have to consider first

I accepted documents sent in after the hearing

[19] The hearing took place on October 30, 2024. After hearing the evidence, I adjourned the hearing to give the Appellant a chance to contact CRA to get more

⁶ The Minister's initial decision is not in the file. The reconsideration decision is at GD2-35-39.

⁷ See GD1-1.

⁸ See GD3-2.

information about her election. I said I would continue the hearing at a later date if it was necessary.⁹

[20] I held a case conference on January 22, 2025. The Appellant told me she did not speak to anyone at CRA, but she sent some tax information to the Tribunal. I asked her to send the Tribunal her Notices of Assessment for 2017 through 2023. I also asked the Minister to provide an updated contributions statement for the Appellant.¹⁰

[21] The Appellant sent the Notices of Assessment.¹¹ I accepted them because I had asked for them.

[22] The Minister has not provided an updated contributions statement. However, I have enough evidence to make my decision. There was no reason to continue the hearing or wait any longer for the Minister to provide the documents I asked for.

Reasons for my decision

[23] The law says that a post-retirement benefit **shall** be paid to a person who is receiving a retirement pension who has “made a contribution in respect of the post-retirement benefit.”¹²

[24] The Appellant’s tax records and her Record of Earnings show that she made CPP contributions in 2017, 2018, 2020, 2021, and 2022. It doesn’t appear they were refunded to her, even after the CRA discovered its error.¹³

[25] At first glance, it seems the Appellant made contributions, so she should get post-retirement benefits. However, the law says that the amounts that were deducted from the Appellant’s pay and sent to CRA after February 2017 were not, in fact, contributions. I will explain why.

⁹ See GD4 (October 30, 2024).

¹⁰ See GD8.

¹¹ See GD9.

¹² See section 44(1)(h) of the *Canada Pension Plan*.

¹³ See her Statement of Contributions at GD2-13, her Notices of Assessment at GD5-4-6, GD5-8, and T4 slip at GD9-28.

– **The Appellant’s election was effective in March 2017**

[26] Although the Appellant signed her election form on January 31, 2017, CRA treated it as having been made—that is, received by them—in February 2017. I find that this is likely what happened. The Appellant wasn’t sure when she delivered it to her employer. It is reasonable to conclude that a document she signed on the last day of January wasn’t received by CRA until February. The election then was effective as of March 2017, the month after it was made.¹⁴

– **The Appellant didn’t make contributions after February 2017**

[27] The amount that a person must contribute to the CPP is based on their “contributory salary and wages.”¹⁵ When they elect to stop contributing to the CPP, their employment income is excluded from their contributory salary and wages.¹⁶

[28] As a result of her election, the amount of the Appellant’s contributory salary and wages after February 2017 was zero. This meant that her “base unadjusted pensionable earnings” were also zero.¹⁷ And because of that, she is deemed (considered) not to have made a contribution after February 2017.¹⁸

[29] This means that the Appellant did not make CPP contributions after February 2017. She isn’t eligible for post-retirement benefits based on what she paid to CRA after that.

[30] This seems to be a harsh result unless the Appellant’s “contributions” are returned to her. It appears that her employer and either CRA or the Minister made mistakes that resulted in amounts being deducted from her pay and sent to CRA when they shouldn’t have been. The Appellant’s only error was in not noticing the mistakes made by others.

¹⁴ See section 12(1.1) of the *Canada Pension Plan*.

¹⁵ See sections 8(1) and 11.1 of the *Canada Pension Plan*.

¹⁶ See sections 12(1) and 12(1.2) and 11 of the *Canada Pension Plan*.

¹⁷ See section 53(1)(a) of the *Canada Pension Plan*.

¹⁸ This is because it is impossible for zero base unadjusted pensionable earnings to exceed the amount of a person’s basic exemption. See section 52(3) of the *Canada Pension Plan*. See sections 19 and 20 for how the basic exemption is calculated.

[31] I sympathize with the Appellant, but I have to follow the law. All I can do is decide if she is eligible for post-retirement benefits. I don't have the power to direct the Minister or CRA to return the amounts she paid, or to give her relief because of financial hardship. She may get some help if she contacts CRA or Service Canada. Unfortunately, there is nothing the Tribunal can do for her.

Conclusion

[32] I find that the Appellant was not eligible for post-retirement benefits as of 2019. The amount of her 2018 post-retirement benefit is reduced to reflect that she only made contributions in January and February 2017.

[33] This means the appeal is dismissed.

Virginia Saunders
Member, General Division – Income Security Section