



Citation: *PO v Minister of Employment and Social Development and LF*, 2025 SST 625

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:** P. O.

**Respondent:** Minister of Employment and Social Development  
**Representative:**

**Added Party:** L. F.  
**Representative:**

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**Decision under appeal:** General Division decision dated May 21, 2025  
(GP-25-511)

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**Tribunal member:** Kate Sellar

**Decision date:** **June 18, 2025**

**File number:** AD-25-400

## Decision

[1] I've refused to give the Claimant (P. O.) leave (permission) to appeal. The appeal will not proceed. These are the reasons for my decision.

## Overview

[2] The Claimant and the Added Party (L. F.) cohabited as common-law spouses from May 20, 2004, to October 8, 2022. On May 3, 2023, they entered into a separation agreement which confirmed those dates.

[3] On June 21, 2023, the Claimant applied for a credit split. Under the Canada Pension Plan (CPP), a credit split happens after a separation or divorce. The Minister of Employment and Social Development (Minister) adds the pension credits together and then divides them equally between the ex-spouses. The Minister told the Claimant that his application to split the pension credits was too early and could not be approved yet. This is because an application can't be approved within one year of common-law spouses' separation.

[4] On October 10, 2023, the Claimant re-applied for the credit split. The Minister approved the credit split as of November 2023. As a result, the Claimant's monthly retirement pension increased by about \$16. The Minister notified the Claimant about the credit split in a letter dated February 20, 2024. On March 6, 2024, the Minister sent a second letter with a more detailed breakdown of its calculations.

[5] On January 30, 2025, the Claimant asked the Minister to cancel or reverse the credit split. He said the Added Party needed the money more than he did. The Minister explained that it was too late to cancel the credit split. The Minister refused cancel the credit split initially and in a reconsideration letter. The Claimant appealed to this Tribunal. The General Division dismissed the Claimant's appeal.

[6] The General Division found that the Claimant couldn't cancel the credit split because he made the request too late.

## Issues

[7] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error by failing to exercise its powers to cancel the credit split?
- b) Does the application set out evidence that wasn't presented to the General Division?

## I'm not giving the Claimant permission to appeal

[8] 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.<sup>1</sup>

[9] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.<sup>2</sup>

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

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<sup>1</sup> See section 58.1(a) and (b) in the *Department of Employment and Social Development Act (Act)*.

<sup>2</sup> See section 58.1(c) in the Act.

**There's no arguable case that the General Division failed to exercise its powers.**

[11] The Claimant argues that following the law as it's written is unfair to the Added Party. Both the Claimant and the Added Party pay taxes and deserve to be treated fairly by government. All rules can be broken in extenuating circumstances and should be broken here in order to assist the Added Party who is experiencing legitimate financial hardship.<sup>3</sup>

– **The General Division explained that it didn't have the power to cancel the credit split.**

[12] The General Division explained that the person who applies and is approved for the credit split has 60 days to withdraw their application by asking the Minister in writing. The 60-day period begins when the person who applies receives written notice of the Minister's decision to approve the credit split.<sup>4</sup>

[13] The General Division found that the Claimant asked to cancel the credit split more than 60 days after he got the notice that the Minister approved it. Therefore, the credit split cannot be undone.<sup>5</sup>

– **There's no arguable case that the General Division made an error about its powers.**

[14] The General Division has to follow and apply the law to each and every appeal. There's no power for the General Division to ignore a part of the CPP because of the Added Party's financial situation or because the Claimant didn't know about the deadline.

[15] Although the idea that rules are made to be broken is a concept many people are familiar with, the General Division doesn't have the power to put that concept in action when it comes to the CPP.

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<sup>3</sup> See AD1-3.

<sup>4</sup> See paragraph 9 in the General Division decision, and section 45(3) of the *Canada Pension Plan Regulations*.

<sup>5</sup> See paragraphs 10 and 11 in the General Division decision.

[16] I endorse fully the Claimant's position that he expects to receive good service from government. However, the Tribunal's role is to decide cases in a way that is consistent with the law (and therefore predictable). If the law doesn't provide for an exception to the rule about withdrawing a credit split, the Tribunal doesn't have the authority to create one in an individual case due to extenuating circumstances. If the law as it's passed by government included a possible exception for financial hardship, the Tribunal would have the authority to enforce and apply that exception. The Claimant hasn't pointed to (and I'm not familiar with) any exception to that rule in the CPP.

### **There's no new evidence.**

[17] The Claimant hasn't provided any evidence that wasn't already presented to the General Division. Accordingly, new evidence also cannot form the basis for permission to appeal.

[18] I've reviewed the record.<sup>6</sup> I'm satisfied that the General Division didn't overlook or misunderstand any important evidence that could change the outcome for the Claimant.

### **Conclusion**

[19] I've refused to give the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar  
Member, Appeal Division

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<sup>6</sup> For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.