



Citation: *KM v Minister of Employment and Social Development*, 2025 SST 634

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: K. M.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated February 21, 2025
(GP-23-665)

Tribunal member: Kate Sellar

Decision date: June 18, 2025

File number: AD-25-394

Decision

[1] I'm refusing to give the Claimant (K. M.) leave (permission) to appeal. The appeal will not proceed. These are the reasons for my decision.

Overview

[2] The Claimant turned 60 on March 30, 2021. The Minister received the Claimant's Canada Pension Plan (CPP) retirement pension application on September 3, 2021. The Claimant wanted her pension to start on December 31, 2021.

[3] The Minister of Employment and Social Development (Minister) approved the retirement pension with an effective date of December 2021. The Claimant asked for the Minister to adjust her monthly CPP pension payment. The Minister refused the request initially and in a reconsideration letter. The Claimant appealed to this Tribunal. The General Division dismissed the Claimant's appeal.

[4] The General Division found that the Claimant isn't eligible for an adjustment of her monthly retirement pension payment.

Issues

[5] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error of law by rejecting the Claimant's arguments about how the CPP ought to work when it comes to:
 - (i) the formula for averaging contributions generally; and
 - (ii) contributions calculations for 2020 to 2021 when there were pandemic-related lockdowns?
- b) Does the application set out evidence that wasn't presented to the General Division?

I'm not giving the Claimant permission to appeal

[6] 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.¹

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

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

There's no arguable case that the General Division made an error of law in its interpretation of the CPP.

[9] The Claimant says that the General Division made two errors about the CPP.³

[10] First, the Claimant argues that the CPP allows the Claimant to choose the five years that are the most advantageous to her in the CPP averaging contributions formula. The Claimant argues that's the approach the General Division should have taken to her retirement pension calculation.

[11] Second, the Claimant argues that the CPP allows the General Division to consider and adjust her retirement pension calculation to account for the fact that she

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

² See section 58.1(c) in the Act.

³ See AD1-5.

wasn't able to make regular contributions as that term is properly understood in 2020 and 2021 during the pandemic lockdowns.

– **The General Division followed the CPP law as it's written.**

[12] The General Division received and considered the same arguments the Claimant is making at the Appeal Division about the formula for calculating her retirement pension.⁴

[13] The General Division asked the Claimant to prove that the law allows for the type of calculation she wants, but she wasn't able to show the General Division any part of the CPP that allows for her to choose the five years for averaging. The Claimant stated that she saw the information on a government website but wasn't able to provide any other detail.⁵

[14] The General Division outlined what the law says about how to calculate a CPP monthly retirement pension amount in some detail. The basic formula requires dividing total adjusted pensionable earnings by the number of months in the contributory period, then multiplying that result by 25%.⁶

[15] In reviewing the Claimant's calculation, the General Division explained the following:

- The Claimant's adjusted pensionable earnings were calculated by dividing the pensionable earnings by the year's maximum pensionable earning (YMPE) and multiplying the result by the average YMPE for the **5-year period ending in the year the CPP pension started**.⁷
- The CPP allowed the Claimant to drop 88 months from her contributory period, which increases the amount of the pension.⁸ Applying the general drop-out rule

⁴ See paragraphs 9 to 16 in the General Division decision.

⁵ See paragraphs 24 and 25 in the General Division decision.

⁶ See paragraph 28 in the General Division decision.

⁷ See paragraph 38 in the General Division decision.

⁸ See paragraphs 36 and 37 in the General Division decision.

helps address the Claimant's concern about the years in which contributions were lower as a result of the pandemic.

- 2020 to 2022 were normal pension contribution years under the CPP and couldn't be dropped out separately as a result of the impact of pandemic lockdowns on the ability to contribute to the CPP.⁹ The general drop-out provision helps address this concern, however.

– **There's no arguable case for an error that would justify giving the Claimant permission to appeal.**

[16] The Claimant hasn't provided any legal support for her arguments about calculating the CPP retirement pension any differently from the approach the General Division took.

[17] The Claimant isn't arguing that the General Division failed to provide her with a fair process.

[18] The Claimant hasn't pointed to any part of the facts that the General Division misunderstood.

[19] The Claimant wants the CPP retirement pension amount to be calculated differently, but she isn't able to show how her calculation is supported by the law the General Division needs to apply.

[20] Accordingly, the Claimant hasn't provided an arguable case for an error by the General Division.

There's no new evidence.

[21] The Claimant hasn't presented any evidence that wasn't already presented at the General Division. Accordingly, new evidence also cannot justify granting the Claimant permission to appeal.

⁹ See paragraph 17 in the General Division decision.

[22] I've reviewed the record.¹⁰ I'm satisfied that the General Division didn't overlook or misunderstand any important evidence that could change the outcome for the Claimant.

[23] The Claimant would like her retirement pension calculation to be different, but the Tribunal must follow the CPP, which sets out the formula for the calculation. The Claimant hasn't pointed to any part of the facts that the General Division may have been wrong about here.

[24] I cannot give the Claimant permission to appeal.

Conclusion

[25] I'm refusing to give the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division

¹⁰ For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.