



Citation: *RB v Minister of Employment and Social Development and PM*, 2025 SST 1053

## Social Security Tribunal of Canada General Division – Income Security Section

# Decision

**Appellant:** R. B.

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

**Added Party:** P. M.

**Representative:** B. P.

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**Decision under appeal:** Minister of Employment and Social Development reconsideration decision dated January 22, 2025 (issued by Service Canada)

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**Tribunal member:** Wayne van der Meide

**Type of hearing:** Teleconference

**Hearing date:** October 14, 2025

**Hearing participants:** Appellant  
Added Party  
Added Party's representative

**Decision date:** October 16, 2025

**File number:** GP-25-709

## Decision

[1] The appeal is dismissed.

[2] The Appellant, R. B., isn't eligible for a Canada Pension Plan (CPP) survivor's pension (pension). This is because the Added Party, P. M., is the contributor's survivor. The Added Party is eligible for the CPP survivor's pension.

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

## Overview

[4] The deceased contributor (contributor) died on December 20, 2023.<sup>1</sup> The Added Party applied for the survivor's pension (pension) in December 2023.<sup>2</sup> The Appellant applied for the pension in March 2024.<sup>3</sup>

[5] The Minister of Employment and Social Development (Minister) approved the Added Party's application and awarded him the pension. Because the Minister determined that the Added Party was the contributor's survivor, the Minister denied the Appellant's application at both the initial and reconsideration levels of review.

[6] The Appellant appealed the Minister's reconsideration decision to the Social Security Tribunal's General Division.

[7] The Appellant says he should receive the survivor's pension because he was still married to the contributor when she died and she wasn't in a common-law relationship with the Added Party. He says they were just roommates.

[8] The Added Party says he should get the pension because he was in a common-law relationship with the contributor when she died.

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<sup>1</sup> See GD2-133.

<sup>2</sup> See GD2-150 to GD2-155.

<sup>3</sup> See GD2-142 to GD2-147.

[9] The Minister says the Added Party is the contributor's survivor. The Minister says the evidence shows the couple had been living together for many years at the time she died.

## What the Added Party must prove

[10] The onus in this appeal is on the Added Party.<sup>4</sup> The Added Party must prove that he is the contributor's "survivor."

[11] A "**survivor**" is a person who was the common-law partner of the contributor at the time of the contributor's death or, if there is no common-law partner, a person who was married to the contributor at the time of the contributor's death.<sup>5</sup>

## What common-law partner means

[12] The law says a "**common-law partner**" is a person who was cohabiting with the contributor in a conjugal relationship for a continuous period of at least one year at the time of the contributor's death.<sup>6</sup> The one-year period is the whole year **immediately** before the contributor's death. It doesn't matter if a couple lived together for a whole year (or more) at a different time.<sup>7</sup>

[13] The word "cohabitation" doesn't mean "co-residence." This means that two people can cohabit even though they don't live under the same roof. It also means that two people can live under the same roof but not be cohabiting in a marriage-like relationship.<sup>8</sup>

[14] When I am deciding if two people were cohabiting in a conjugal relationship, I have to look at factors like:<sup>9</sup>

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<sup>4</sup> See *Betts v Shannon* (October 22, 2001), CP 11654 (PAB).

<sup>5</sup> The term "survivor" is defined in section 42(1) of the *Canada Pension Plan*.

<sup>6</sup> See section 2(1) of the *Canada Pension Plan*.

<sup>7</sup> See *J.R. v Minister of Employment and Social Development*, 2021 SST 113 at paragraphs 8 and 80. While decisions of the Tribunal's Appeal Division are not binding on me, I find this decision persuasive and I see no reason to depart from it.

<sup>8</sup> This is explained in *Minister of Human Resources Development v Hodge*, 2004 SCC 65.

<sup>9</sup> See *McLaughlin v Canada (Attorney General)*, 2012 FC 556. These factors are substantially similar to the factors set out in *Betts v Shannon* (October 22, 2001), CP 11654 (PAB).

- their living and sleeping arrangements
- their financial arrangements
- their behaviour toward each other privately and in public
- the help they gave each other in the home
- how the community viewed their relationship

[15] A couple doesn't have to meet all of these factors. And they may meet them in varying degrees. I have to take a flexible approach in deciding whether there was a conjugal relationship at the relevant time.<sup>10</sup>

## **Reasons for my decision**

[16] The Added Party was the contributor's common-law partner when she died. He wasn't just her roommate. He was her common-law partner. This means the Added Party, not the Appellant, is the contributor's survivor. The Added Party is entitled to the survivor's pension.

### **The Appellant wasn't credible**

[17] The Appellant says that the contributor and the Added Party were just roommates. I don't believe him. He wasn't a credible witness. I prefer other evidence that shows that the Added Party and contributor were common-law spouses.

#### **- His testimony conflicts with evidence which I prefer over his testimony**

[18] The Appellant was asked at the hearing if he knew whether the Added Party was financially supporting the contributor. He said he didn't know. A letter he wrote showed that he knew the Added Party was financially supporting the contributor.<sup>11</sup>

[19] The Appellant said that the contributor was living in X with an abusive boyfriend (R.) from June 2023 to September 2023 until he assaulted her.<sup>12</sup>

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<sup>10</sup> See *M v H*, [1999] 2 SCR 3 at paragraphs 59 and 60.

<sup>11</sup> See GD9-385.

<sup>12</sup> See GD2-6.

[20] This is inconsistent with a letter from the contributor's employer saying that she was working, in Y, full time from June 20, 2023, to September 19, 2023, and that the Added Party would regularly pick her up and drop her off for her shifts.<sup>13</sup>

[21] It is also inconsistent with a probation order which shows that the assault of the contributor by R. took place in April 2020, not 2023.<sup>14</sup>

[22] The Appellant said that when she died the contributor had moved away from the Added Party and was living with a friend. I find that the contributor didn't stop living with the Added Party. They were in a common-law relationship when she died. This is confirmed by text messages between the Added Party and the contributor and a coroner's report which says she was "visiting" (not living with) a friend when she died.<sup>15</sup>

**- The Appellant's story hasn't been consistent**

[23] Before the hearing the Appellant said that the contributor had never had any common-law partners after they separated.<sup>16</sup> However, at the hearing he said that the contributor had conjugal relationships with many men, of which the Added Party was one.

**- The Appellant's story is generally inconsistent with the other evidence**

[24] The Appellant's story is generally inconsistent with significant documentary evidence showing that the Added Party and the contributor were common-law partners.

**Living and sleeping arrangements**

[25] The evidence shows the contributor and the Added Party lived together for about 11 years. The company that managed their rental apartment confirmed that the contributor and the Added Party had been tenants at the same address continuously since December 2012.<sup>17</sup>

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<sup>13</sup> See GD9-294.

<sup>14</sup> See GD9-416 to GD9-418.

<sup>15</sup> See GD2-196 to GD2-262 and GD9-193.

<sup>16</sup> See GD2-6.

<sup>17</sup> See GD7-2.

### **The Added Party and the contributor's behaviour towards each other**

[26] The Added Party's testimony was compelling and convincing. He described a troubled relationship with an addict who he tried to support. His evidence is supported by the contributor's journal records when she was at rehabilitation facilities.<sup>18</sup>

### **Financial arrangements**

[27] The contributor and the Added Party financially supported each other.<sup>19</sup>

- Medications for the Added Party were paid by the deceased contributor's insurance policy.
- There is a letter from an insurer saying that the Added Party will continue to have coverage under the deceased contributor's plan.
- There is evidence of medical expense claims made by the Added Party paid for by the insurance plan of the deceased contributor.
- The Added Party was designated as the contributor's beneficiary of his tax-free savings accounts as his "common law partner" in December 2019.
- In his will the Added Party made the contributor the primary beneficiary of his estate.
- The Added Party arranged and paid for the deceased contributor's funeral arrangements.
- The Added Party was covered under the deceased contributor's dental plan.
- The Added Party was paid a death benefit by the Added Party's insurance plan.
- The Added Party is the representative of the estate of the deceased contributor.

### **How others viewed their relationship**

[28] There are 15 signed and dated letters from family, friends and acquaintances confirming that the Added Party and the contributor were common-law spouses from around 2012 until her death.<sup>20</sup>

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<sup>18</sup> See GD9-300 to GD9-341.

<sup>19</sup> See GD2-24, GD2-32, GD2-33, GD2-35 to GD2-38, GD2-41, GD2-42, GD2-45 to GD2-48, GD2-53, GD2-54, GD2-82, GD2-101 to GD2-103 and GD8-2 to GD8-4.

<sup>20</sup> See GD2-83 to GD2-98 and GD9-105 to GD9-121.

[29] The Added Party is listed as the common-law spouse in a proof of death certificate issued by the funeral home.<sup>21</sup>

### **Help they gave each other**

[30] Sadly, right up until the day she died the Added Party was still trying to arrange for the contributor to go to another rehabilitation centre.<sup>22</sup>

### **Decision**

[31] The Appellant isn't a "survivor" as defined the CPP. As a result, he isn't eligible for a CPP survivor's pension.

[32] The Added Party is a "survivor." He is eligible for a CPP survivor's pension.

[33] This means the appeal is dismissed.

Wayne van der Meide  
Member, General Division – Income Security Section

Wayne van der Meide  
Member, General Division – Income Security Section

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<sup>21</sup> See GD2-149.

<sup>22</sup> See GD9-254 to GD9-262.