



Citation: *BW v Minister of Employment and Social Development*, 2026 SST 142

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

# **Leave to Appeal Decision**

**Applicant:** B. W.

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

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**Decision under appeal:** General Division decision dated January 25, 2026  
(GP-25-1672)

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**Tribunal member:** Neil Nawaz

**Decision date:** March 1, 2026

**File number:** AD-26-98

## Decision

[1] I am refusing the Applicant permission to appeal. This appeal will not be going forward.

## Overview

[2] The Applicant is a 79-year-old retiree who lived in New Zealand for many years. Last year, he returned to Canada and applied for a Canada Pension Plan (CPP) retirement pension.<sup>1</sup> Service Canada, the Minister's public-facing agency, denied his application because it had no record that the Applicant had ever registered Canadian earnings or CPP contributions.<sup>2</sup>

[3] The Applicant appealed Service Canada's decision to the Social Security Tribunal. The Tribunal's General Division held a hearing by teleconference and dismissed the appeal. It saw no evidence that the Applicant had ever made CPP contributions. It also determined that, without any CPP contributions, there was no way the Applicant could be helped by the reciprocal social security agreement (SSA) between Canada and New Zealand.

[4] The Applicant is now requesting leave, or permission, to appeal the General Division's decision.<sup>3</sup> He makes the following points:

- He recalls making Canadian payroll deductions, including CPP contributions, between 1981 and 1983.
- There is no record of these deductions because they were made before the internet.
- It is unreasonable to expect him to confirm his Canadian earnings and contributions after more than 40 years.

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<sup>1</sup> See the Applicant's application for the CPP retirement pension dated August 11, 2025, GD2-4.

<sup>2</sup> See Service Canada's refusal letters dated August 19, 2025 (GD2-11) and October 2, 2025 (GD2-18).

<sup>3</sup> See the Applicant's leave to appeal application dated February 15, 2026, AD1.

- Over the years, Service Canada has shown that it is not immune from making errors.

[5] However much I may sympathize with the Applicant, I can't allow his appeal to proceed. That's because he hasn't met any of the grounds of appeal.

## Issues

[6] There's no automatic right to appeal a General Division decision. The Appeal Division must first give permission to appeal. It will only do so if an applicant produces new evidence or presents an arguable case that the General Division

- proceeded in a way that was unfair;
- acted beyond its powers or refused to exercise those powers; or
- made an error of law or fact or some combination of the two.<sup>4</sup>

[7] At this stage, I have to decide whether the Applicant produced new evidence or presented an arguable case that the General Division made some kind of mistake.

## Analysis

### **The Applicant didn't produce any relevant new evidence**

[8] The Applicant has submitted new information that was not available to the General Division, but none of it was relevant to the question of whether he was entitled to a CPP retirement pension. The Applicant's request for leave to appeal was accompanied by these items:

- A news release issued by Employment and Social Development Canada (ESDC) on March 5, 2019, detailing technical errors in the production of updated earnings and contributions letters;<sup>5</sup>

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<sup>4</sup> See section 58.1(b) of the *Department of Employment and Social Development Act*.

<sup>5</sup> See AD1-11

- An internet page thanking the Applicant for choosing BCAA home insurance;<sup>6</sup> and
- A Google AI overview of the remedies available to Canadians when Service Canada gives erroneous advice or makes administrative errors.<sup>7</sup>

[9] I don't see how any of this new material has bearing on whether the Applicant was eligible for the retirement pension:

- The Applicant has introduced evidence demonstrating that ESDC has admitted to mistakes in one of its mailings, but every large organization occasionally makes mistakes, and the Applicant's new material does not prove ESDC made a mistake **in his particular case**.
- The fact that the Applicant has home insurance through a British Columbia company suggests that he has now a resident of Canada, but it says nothing about whether he made any CPP contributions in past years.
- The AI overview is not evidence but Google Gemini's response to the query, "Does CPP make mistakes?" It contains a few brief points about the *Canada Pension Plan* and how it is administered. Only one of the points touches on Ministerial error, and it is nothing more than a vague restatement of the law.

[10] Leave to appeal is granted if a claimant provides evidence that was not presented to the General Division. On the face of it, this language is broad, but case law has endorsed a more restrictive interpretation of what is meant by "evidence" in this context.

[11] In a recent case called *Kryklywicz*, the Federal Court found it reasonable for the Appeal Division to refuse leave if the new evidence presented is irrelevant or arguably irrelevant.<sup>8</sup> In doing so, it relied on this statement from the Supreme Court of Canada: "It

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<sup>6</sup> See AD1-12.

<sup>7</sup> See AD1-13.

<sup>8</sup> See *Kryklywicz v Canada (Attorney General)*, 2026 FC 36.

is a basic or bedrock concept of law that for evidence to be admissible in a proceeding it must be relevant.”<sup>9</sup>

### **There’s no arguable case that the General Division made an error**

[12] I have reviewed the record, and I’m satisfied that the General Division didn’t misinterpret the applicable law, misconstrue the available evidence, or otherwise act unfairly.<sup>10</sup>

[13] The General Division decided that the Applicant was not entitled to the CPP retirement pension for the following reasons:

- CPP claimants must show that they made at least some contributions to the plan.
- Service Canada searched its database by the Applicant’s social insurance number, name, and variants of his name. It found no record that he had ever made any CPP contributions.<sup>11</sup>
- Without any CPP contributions, the Applicant could not benefit from the Canada-New Zealand SSA.

[14] The burden of proof is on claimants to show that they are entitled to CPP benefits. In other words, it was up to the Applicant to demonstrate that he had made contributions or that Service Canada had missed such contributions. The General Division found that he had done neither, and there’s no arguable case that it erred in doing so.

[15] Ultimately, the Applicant’s submissions amount to a complaint that the General Division didn’t give him his desired result. That by itself is not enough to advance his appeal.

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<sup>9</sup> See *R v Blackman*, 2008 SCC 37.

<sup>10</sup> See *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

<sup>11</sup> See Service Canada benefits report, GD2-20.

## Conclusion

[16] I am refusing the Applicant leave to appeal because he didn't produce any relevant new evidence or present an argument that the General Division made an error.

[17] This means the appeal will not proceed.



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Member, Appeal Division