



Citation: *KW v Minister of Employment and Social Development and Estate of GV*, 2026 SST 252

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: K. W.

Respondent: Minister of Employment and Social Development

Added Party: Estate of G. V.

Decision under appeal: General Division decision dated December 18, 2025
(GP-25-991)

Tribunal member: Neil Nawaz

Decision date: March 20, 2026

File number: AD-26-110

Decision

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

Overview

[2] The Applicant is an 82-year-old retiree. In 2008, she began receiving the Old Age Security (OAS) pension and the Guaranteed Income Supplement (GIS). She received both at the single rate.

[3] In May 2021, the Applicant applied for a Canada Pension Plan (CPP) death benefit and survivor's pension.¹ In both applications, she declared that she was the common-law spouse of G. V. at the time of his death.

[4] The applications prompted Service Canada to launch an investigation into the Applicant's marital status. It concluded that the Applicant had been living with the late G. V. in a common-law relationship since 2011. In November 2023, it assessed overpayment of more than \$18,300.²

[5] Service Canada assessed the overpayment because the GIS amount paid to persons who are single is higher than the amount paid to persons who are married or in a common-law relationship.³

[6] The Applicant appealed the overpayment assessment to the Social Security Tribunal. She acknowledged that she lived with G. V. in his final years, but she claimed that, except for a brief period years earlier, they were not in a conjugal relationship.

¹ See applications for the CPP death benefit (GD8-1) and survivor's pension (GD8-7), both date-stamped May 13, 2021.

² See Service Canada's letter dated November 29, 2023, GD2-90. Service Canada later reduced this amount to account for the Applicant's approval for the CPP death benefit.

³ See section 12 of the *Old Age Security Act*.

[7] The Tribunal's General Division held a hearing by teleconference and dismissed the appeal. It found, on balance, that the Applicant was in a continuing common-law relationship with G. V. from 2007 until his death.

[8] The Applicant then requested leave, or permission, to appeal the General Division's decision.⁴ She said that the General Division misunderstood some of the evidence.

[9] On March 4, 2026, the Tribunal sent the Applicant a letter reminding her of the grounds of appeal and asking her to provide new information and/or describe in detail what errors she thought the General Division might have made.

[10] On March 13, 2026, The Applicant responded with a handwritten letter elaborating on her objections to the General Division's decision.⁵

[11] Having reviewed the letter, I can't allow her appeal to proceed. That's because she hasn't met any of the grounds of appeal.

Issue

[12] 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 if they present 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.⁶

[13] The Applicant did not produce any new evidence, so my task was to decide whether the General Division might have made a mistake that fell into one of the specified categories.

⁴ See the Applicant's leave to appeal application dated February 18, 2026, AD1.

⁵ See the Applicant's email, with attachment, dated March 13, 2026, AD1B.

⁶ See section 58.1(b) of the *Department of Employment and Social Development Act*.

Analysis

[14] I don't see an arguable case that the General Division misinterpreted the applicable law, misconstrued the available evidence, or otherwise acted unfairly.

[15] The General Division found the Applicant disentitled to the GIS at the single rate for the following reasons:

- Common-law spouses cohabit in a conjugal relationship for a continuous period of at least one year.
- The Applicant had been living with G. V. since 2007 at the time of his death.
- The Applicant and G. V. had a sexual relationship — at least initially.
- The Applicant was close to G. V.'s mother.
- The community assumed that the Applicant and G. V. were a couple.
- After G. V. died, the Applicant applied for the death benefit and the survivor's pension, and she identified herself as a widow on tax returns in three of four years beginning in 2021.

[16] I don't see how the General Division erred in making these findings. What's more, the Applicant hasn't identified any specific flaws in the General Division's decision or the process by which it came to that decision.

[17] In her supplementary submission, the Applicant disputed many of the General Division's findings:

- She and G. V. had a commitment ceremony years ago and lived common-law for a short time, but they soon stopped having sexual relations.
- G. V. continued to live in her home — he had nowhere to go, and she was concerned about his health.
- G. V. had his own room, his own car, and ate his meals separately.

- She did not provide daily care for G. V. and only drove him to Emergency once.
- She was confused about the date on which she began living with G. V. because it was almost 20 years ago.
- G. V. got to know her family only because they visited her at home. She had limited contact with his family.
- A funeral home completed a CPP survivor's pension application listing her as G. V.'s spouse — and she signed it unknowingly.
- She may not have given the General Division clear understanding of her relationship with G. V.

[18] The Applicant obviously disagrees with the General Division's findings and the overall conclusion that it drew from those findings. But that is not enough to get permission to appeal to the Appeal Division. An applicant must also identify specific errors that the General Division committed in making those findings.

[19] In requesting permission to appeal, the Applicant does little more than repeat evidence that she gave to the General Division. But the General Division already considered that evidence and found it less than compelling. Instead, it chose to give more weight to competing evidence that pointed to an ongoing marriage-like relationship between G. V. and the Applicant. In its role as finder of fact, that was the General Division's prerogative.⁷

[20] Adjudicators are presumed to have considered all available evidence. It was open to the General Division to review the record and decide what was important and what was not.⁸ The Applicant alleges that the General Division ignored or misunderstood her evidence. I saw no indication of that. I see no reason to interfere with

⁷ See *Simpson v Canada (Attorney General)*, 2012 FCA 82.

⁸ *Ibid.*

the General Division's findings where it has considered the evidence before it and correctly cited the applicable law.

Conclusion

[21] I don't see an arguable case that the General Division committed a legal or factual error or otherwise failed to observe a principle of natural justice.

[22] This means the Applicant's appeal will not proceed.



Member, Appeal Division