Citation: *J. C. v. Minister of Human Resources and Skills Development*, 2014 SSTGDIS 31

Appeal No: GT-115250

BETWEEN:

J. C.

Appellant

and

Minister of Human Resources and Skills Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security

SOCIAL SECURITY TRIBUNAL MEMBER:	Raymond Raphael
HEARING DATE:	October 1, 2014
TYPE OF HEARING:	Teleconference
DATE OF DECISION:	October 3, 2014

PERSONS IN ATTENDANCE

J. C.: Appellant

DECISION

[1] The Tribunal finds that a *Canada Pension Plan* (CPP) disability pension is payable to the Appellant.

INTRODUCTION

[2] The Appellant's application for a CPP disability pension was date stamped by the Respondent on April 9, 2010.The Respondent denied the application at the initial and reconsideration levels and the Appellant appealed to the Office of the Commissioner of Review Tribunals (OCRT).

[3] The hearing of this appeal was by teleconference for the reasons given in the Notice of Adjournment dated September 29, 2014.

THE LAW

[4] Section 257 of the *Jobs, Growth and Long-term Prosperity Act* of 2012 states that appeals filed with the OCRT before April 1, 2013 and not heard by the OCRT are deemed to have been filed with the General Division of the Social Security Tribunal.

[5] Paragraph 44(1)(b) of the CPP sets out the eligibility requirements for the CPP disability pension. To qualify for the disability pension, an applicant must:

a) Be under 65 years of age;

b) Not be in receipt of the CPP retirement pension;

c) Be disabled; and

d) Have made valid contributions to the CPP for not less than the Minimum Qualifying Period (MQP).

[6] The calculation of the MQP is important because a person must establish a severe and prolonged disability on or before the end of the MQP.

[7] Paragraph 42(2)(a) of the CPP defines disability as a physical or mental disability that is severe and prolonged. A person is considered to have a severe disability if he or she is incapable regularly of pursuing any substantially gainful occupation. A disability is prolonged if it is likely to be long continued and of indefinite duration or is likely to result in death.

ISSUE

[8] There was no issue regarding the MQP and the Tribunal finds that the MQP date is December 31, 2013.

[9] In this case, the Tribunal must decide if it is more likely than not that the Appellant had a severe and prolonged disability on or before the date of the MQP.

BACKGROUND

[10] The Appellant was 46 years old on the December 31, 2013 MQP date. She completed grade 13, and attended Ryerson in a theatrical production program for one year, but did not complete her degree. After leaving Ryerson she held approximately ten contract positions mostly as an administrative assistant with the Ontario government and in the private sector. The longest government contract she held was with the Ministry of Labour for about two years. She also held contracts for one or two years at AT&T, Ontario Power Generation, and the accounting firm Arthur Andersen.

[11] Her last employment was for the Ontario College of Teachers, initially in a temporary position as an Accreditation and Evaluations Secretary from November 2005 to February 2006, and then as an administrative assistant in the Evaluation Unit. She struggled at work between February 2006 and October 2009 because of what she described as a

"hostile and toxic work environment." She underwent extensive therapy, counselling, and psychiatric treatment for depression and substance abuse. In October 2009 she went on short term disability and she has not returned to work since that time.

[12] In her CPP disability questionnaire date stamped by the Respondent on April 9, 2010, the Appellant indicated that she last worked as an administrative assistant for the Ontario College of Teachers from February 6, 2006 until October 5, 2009; she noted that she stopped working because of psychological trauma caused by significant harassment with [a] hostile and toxic work environment. She claimed to be disabled as of October 6, 2009 and described the illnesses and impairments preventing her from working as follows: ruminative thoughts; social anxiety; panic attacks; alcohol abuse; major depression; generalized anxiety disorder; social phobia; affect dysregulation; chronic interpersonal difficulties; low concentration; inability to concentrate and focus; low energy; low interest; and insomnia. She indicated that because of her social anxiety she cannot work in an office atmosphere, and that chronic interpersonal difficulties cause her to explode under stress. She noted her other health related impairments to include asthma and a weak bladder.

[13] In a self-report form to ODSP dated June 10, 2011 the Appellant reported as follows: "I suffer from major depressive disorder, anxiety, [and] PTSD as a result of significant trauma in the workplace. I have been in psychiatric care for some time and have been hospitalized due to the above symptoms. I have become withdrawn and hypersensitive. I am unable to sleep and have frequent debilitating depressive episodes. I have difficulty concentrating, problem solving & decision making. I suffer from low energy, social withdrawal, and loss of interest in previously enjoyable activities. I feel isolated and alienated from others, [and] uneasy in social interactions. I have frequent emotional upset & physical reactions when reminded of the harassment. I experience waves of anxiety during the day. I suffer from flashbacks which are intrusive memories & visual images of the abuse. These intrusive experiences make me feel angry & nervous. I always feel overwhelmed…."

ORAL EVIDENCE

[14] In her oral evidence at the hearing, the Appellant testified that the workplace harassment started in February 2006. In August 2007, she suffered her first breakdown because of the harassment. Her boss was very nasty to her, and she felt that everyone was shunning her because they were afraid of her boss. By August she was a mess and started crying at work, and went to the closest hospital emergency department. She stated that she didn't have any mental health issues before 2006, that she never suffered from depression, and that the only medical issue she had was asthma. She described herself as a high achiever who worked long hours. She was a completely different person who was very employable and had great jobs. She would occasionally binge drink with friends, but she didn't consider herself as having an alcohol dependence problem.

[15] Her harassment complaint was upheld and she went back to work in October 2007 working for a different boss. She thinks the executive at the Teacher's College had decided that she has to go since she had filed a complaint, and that they were trying to build up a case against her to get her to quit. She was suspended twice without pay because of what her employer claimed was insubordination. She had raised issues at meetings, and she felt they were treating her like a criminal. She was off for two weeks in 2008 to attend a residential program at CAMH.

[16] On October 6, 2009 she broke down at work because of a dispute with her boss, about her boss bending the rules for leave allowance for one of the senior employees. She hasn't worked since October 2009, and hasn't made any efforts to find alternative employment. She stated that she can't put the workplace harassment behind her. She still has nightmares about what happened at work, and that she suffers from flashbacks and insomnia. Since she can't sleep at night, she is very tired during the day. She stated, "I never know what kind of mood I will be in…some days I am fine…on other days I can't face anyone…this would be totally unacceptable in a work environment since my mood is so unpredictable…I explode in stressful situations…I hold things back internally and don't trust people." She stated that she has chronic interpersonal difficulties and couldn't even work from home because she can't commit to any work times. She is tired during the day,

and she just goes to bed and stays depressed. She tried taking a cooking class at George Brown College, but she couldn't sit and read the material, and she couldn't concentrate and listen to the teacher. She dropped out after the first class.

[17] On a typical day, she wakes up between 10 and 12 because she goes to bed late and has difficulty sleeping. Sometimes she takes a shower, and sometime she doesn't. If the weather is nice, she will go for a walk for 2-3 hours. During the summer she sits outside a coffee shop. She then comes home, and usually takes an afternoon nap because she hasn't slept at night. She only eats once a day. She spends the night either watching television or going out drinking. She has gone out drinking three to four times a week, in the last month. She goes to a bar in Kensington Market, meets some people, and sits on the patio.

[18] She stated that about once a month she goes to an Alcoholics Anonymous (AA) meeting. She has been a member of AA for about 18 months. She doesn't attend more meetings because she finds it hard to be in a room with a lot of people. She suffers from "major anxiety", is extremely shy, and finds it hard to talk about herself in front of people. She stated that her drinking was very bad during the summer because she had a rough summer during which her father died and she underwent very painful fibroid surgery; she has now reduced her drinking to about 18-20 drinks a week. She stated, "I use alcohol to cope with my issues…it is a vicious circle." She has an appointment next week for an assessment at CAMH, and she will be joining a women's support group for people with addiction and mental health issues.

[19] Her present medications are Cipralex (20 mg daily), Wellbutrin XL (300 mg daily), Ativan (as required for sleep), and Symbicort (for her asthma). Dr. Shugar added the Wellbutrin to the Cipralex. Her medications are prescribed by Dr. Erenhich, her family doctor. She is now only seeing her family doctor, because she hasn't been able to find a psychiatrist. Dr. Shetty moved to Vancouver, and Dr. Shugar only sees in-patients. She stated that she tries to take her medications on a regular basis, but sometimes she isn't able to afford them. She is no longer on ODSP, and has been on Long Term Disability (LTD) for the last couple of years; she receives a monthly payment, but no benefits, so she has to pay for her medications out of her own pocket. Her insurance company paid for Revia for one

month (it costs a couple of hundred dollars a month), and it helped her deal with her cravings for alcohol; but the insurance company refused to continue paying for this.

[20] She concluded her evidence by referring the Tribunal to the reports from Dr. Shetty and Dr. Shugar and stating that she doesn't think she is employable, she is still cynical, and she is not able to get past the harassment at her last employment.

MEDICAL EVIDENCE

[21] The Tribunal has carefully reviewed all of the medical evidence in the hearing file. Set out below are those excerpts the Tribunal considers most pertinent.

[22] A report dated March 2010 from Dr. Shetty, psychiatrist, accompanied the CP application. The report diagnosis alcohol dependence (in partial remission), major depressive disorder (recurrent, moderate severity, and anxious features), and generalized anxiety disorder symptoms. Dr. Shetty noted that the Appellant's first major depressive episode was in 2006; that she was on leave for two months and then returned to work; that despite returning to work, she continued to experience low mood, disrupted sleep, problems with concentration, interest and energy and fleeting suicidal ideation; and that low grade symptoms continued until October 2009 when there was an acute worsening. Dr. Shetty further noted that the Appellants alcohol dependence began in 2006, and worsened until October 2009. The prognosis for alcohol dependence was good and Dr. Shetty stated that the Appellant "always follows through with medical suggestions and is adherent to treatments."

[23] On August 15, 2007 the Appellant attended at the Woman's College Hospital Emergency department because of an anxiety attack.

[24] On August 21, 2007 Dr. Erenhich, family doctor, completed a Short Term Disability (STD) medical certificate confirming that the Appellant had not been medically fit to work since August 15, 2007.

[25] CAMH progress notes indicate that the Appellant attended numerous group therapy sessions from July 2007 through to January 2009.

[26] On February 4, 2008 Dr. Erenrich, family doctor, reported to the Appellant's lawyer. She noted that she had been the Appellant's family doctor since 1991, and that on August 22, 2007 the Appellant was very distressed about her employment situation and complained of harassment. She further noted that this was the first time that the Appellant required treatment with anxiotic medication, and that she requested referral to a psychotherapist. When she saw the Appellant on September 4, 2007 she was feeling better after a break from work. She noted that the Appellant did return to work but found the situation very difficult with significant stress which was still ongoing.

[27] On April 15, 2008 St. Joseph's Health Centre confirmed that the Appellant had completed a mindfulness-based stress reduction program.

[28] On November 11, 2008 Dr. Erenrich noted that the Appellant had to leave work for 10 weeks, for medical reasons.

[29] In a consultation noted dated January 21, 2009 Dr. Balchard, psychiatrist, with the CAMH reported that the Appellant had reduced her drinking to two drinks, twice a week, when out with friends. The Appellant was healthy-appearing, neatly dressed and hygienic. She was alerted and oriented x 3. She was intelligent, well-spoken and cooperative after having initial difficulty adjusting to the interview. She was pleasant and her affect was normal. She did not endorse any anhedonia, and enjoyed working out at the gym and reading books. Her concentration was good and had not been affected. Dr. Balchard diagnosed generalized anxiety disorder with social phobia, and a past history of alcohol abuse. He also diagnosed some Cluster-B traits including impulsivity and affect dysregulation.

[30] On October 6, 2009 the Appellant emailed her employer advising that she would not be in the office for the remainder of the week and that she will provide a status update from her family doctor by Friday, October 9th. She stated, "The current work environment in the Evaluation Unit is toxic. I have been subjected to a sustained pattern of harassment by H. C. with the apparent support of the College executive. The last incident regarding "leave forms" further underlines this pattern and I find it almost impossible to perform the simplest

of tasks that are part of my job description." She requested that a copy of her email be forwarded to the Registrar.

[31] On October 6, 2009 the Appellant presented at the Women's College Hospital emergency department. The notes describe her presenting complaints as follows: "Depression…experiencing anger, depression, insomnia-from night mares-occasional thoughts of hurting herself…harassment at work for six months… unable to cope."

[32] Progress notes from Women's College Hospital indicate that the Appellant attended for extensive treatment between October 23, 2009 and October 20, 2010.

[33] A crisis intake assessment at Woman's College Hospital on October 15, 2009 prepared by Dr. Shetty noted a workplace incident on October 5th when the Appellant had received an email from her boss indicated that he was very disappointed because the Appellant had told a teacher her rights. The Appellant went to the Woman's College Hospital ER department the next day and had been on Short Term Disability (STD) since that date. The intake assessment notes that the Appellant had attended the CAMH for addiction treatment between November 2008 and March/April 2009. The diagnosis was major depressive disorder (recurrent moderate severity), ETOH dependence in early relapse, and difficulty regulating affect and some signs of impulsivity. Dr. Shetty assessed a GAF of 51-60. She referred the Appellant to the CAMH day treatment group, to AA groups, and for an application for the CAMH residential program.

[34] A letter from CAMH dated April 28, 2010 to Great West Life confirms that the Appellant had been admitted to and successfully completed a residential treatment program from April 7 to April 28. At the time of discharge, her plan was to attend the Continuing Care Group for a period of one year commencing on May 5th.

[35] On June 30, 2010 the Appellant underwent a crisis intervention assessment at CAMH. The reasons for the referral were suicide risk and financial crisis.

[36] On December 14, 2010 Dr. Pollock, psychologist, reported on his psychological assessment of the Appellant. The psychological testing indicated debilitating psychopathology characterized by severe depression, anxiety and suicidal features. He

indicated that she would require ongoing, long-term treatment, if she is to overcome he psychological problems and eventually return to the workplace.

[37] On December 16, 2010 Dr. Gojer, psychiatrist, reported on his psychiatric assessment of the Appellant. After a very thorough and detailed assessment, Dr. Gojer concluded that the Appellant is suffering from a major depressive illness, panic disorder, social phobia and anxiety disorder, not otherwise specified. She was also suffering from anxiety disorder that appears to have evolved out of the stress that she has experienced at her most recent workplace, and to have developed symptoms akin to post-traumatic stress disorder. Dr. Gojer stated that during the course of her work, she has suffered from high levels of stress with attendant anxiety and panic attacks, depression, flashbacks, and nightmares related to the stress she experienced in dealing with her employer, the Ontario Teacher's College. She also had a problem with insomnia which needed investigation. He concurred with Dr. Shetty's opinion that the Appellant is a suitable candidate for LTD, and opined that she "is definitely not ready to return to any work."

[38] On January 10, 2011 the Appellant attended for an overnight sleep study at the MedWest Medical Centre, Sleep Research Unit. The report from Dr. Shapiro, psychologist, diagnoses some non-specific poylysomnographic features of depression; some polysomnographic features of panic disorder and post-traumatic stress disorder (PTSD); periodic limb movements in sleep (PLMS) (mild) and possible restless leg syndrome (RLS); insomnia and fragmented sleep; and impaired daytime alertness.

[39] A discharge summary prepared by Dr. Shugar, psychiatrist, notes that the Appellant was admitted to CAMH on April 29, 2011 (presenting to the emergency department with depression, suicidal ideation, and confusion) and discharged on June 9, 2011. The discharge diagnosis was major depression, adjustment disorder, substance abuse alcohol. Dr. Shugar assessed a GAF of 60.

[40] On January 2, 2012 Dr. Shugar sent a detailed report to the Appellant's lawyer detailing his treatment of her during her recent hospitalization at CAMH, addressing the issues, and reviewing the findings and opinions of other clinicians who have assessed the Appellant. Dr. Shugar indicated that the Appellant's admission to CAMH from April 29 to

June 9, 2011 was her first admission to a psychiatric unit. He reviewed her treatment in detail and stated that she had a final assessment by Dr. Rumm who noted the Appellant "had adhered to the program, worked on her goals, kept her appointments and she had been punctual. Her mood, while not recovered, had improved to 7/10 and Dr. Rumm's impressions were of Major Depression in early remission. She had maintained sobriety since she first admitted to the hospital and had not relapsed to drinking"

[41] Dr. Shugar listed the Appellant's relevant conditions as major depression, generalized anxiety disorder, social phobia, and PTSD. He expected the symptoms to last for at least one year, and indicated that the symptoms of depression and PTSD would likely be continuous whereas the symptoms of anxiety would wax and wane. He completed the ODSP application for the Appellant indicating that due to her ongoing symptoms and vulnerability to stress she was unlikely to return to productive employment in the foreseeable future. He noted that she remained significantly avoidant even to the point of not answering her phone and that she was at times housebound. She was unproductive, her initiative was impaired, and she was unable to work.

[42] A discharge summary prepared by Dr. Shugar notes that the Appellant was admitted to CAMH on May 11, 2012 (having been referred following the break-up of a tumultuous and difficult six months relationship) and discharged on June 5, 2012. The Appellant had been drinking excessively, had been subject to abuse, and had thoughts of suicide. The diagnosis was substance abuse (alcohol), adjustment disorder with depressed mood and anxious mood, major depression, and complex post-traumatic stress disorder. The Axis III diagnosis indicates evidence of increased liver enzymes and increased pancreatic enzymes due to drinking. The GAF was assessed at 65.

[43] A progress note dated April 4, 2013 from Dr. Balchard, psychiatrist, indicates that the Appellant had been admitted to the CAMH, alcohol dependence clinic, on March 19, 2013 and the interaction end date was April 4, 2013. The note indicates that the Appellant had been on LTD since May/June last year and that she was in a toxic relationship with a "raging alcoholic" and bipolar man. After a detailed review of the Appellant's substance abuse history Dr. Balchard diagnosed alcohol dependence and major depressive disorder.

Under Axis II he diagnosed cluster traits. Dr. Balchard assessed a GAF of 55. He discussed and made medication suggestions, scheduled a day detox program, and encouraged the Appellant to connect with Dr. Buckley for psychiatric care, and to attend a Women's Skills group.

[44] Dr. Balchard's April 18, 2013 note indicates that the Appellant had attended for a daily detox program.

[45] Dr. Balchard's progress note dated October 8, 2013 indicates that the Appellant had been assessed in the CAMH emergency department on October 1st because of severe agitation due to sudden discontinuation of both Cipralex and Wellbutrin.

SUBMISSIONS

[46] The Appellant submitted that she qualifies for a disability pension because:

a) Her multiple ongoing psychiatric and psychological conditions preclude her from pursuing any form of gainful employment on a regular and consistent basis; she is medically unfit to work because she has suffered trauma which has led to major depression, anxiety, and PTSD;

b) She has taken medications on a regular basis to the extent she can afford them;

c) She has been compliant with, and pursued extensive treatments;

d) She is continuing to pursue treatment to the extent that treatment is available.

[47] The Respondent submitted that the Appellant does not qualify for a disability pension because:

a) The Respondent acknowledges that the Appellant experienced situational issues with her previous employer and that she is not able to return to work under her previous employment, but submits that she has the capacity to retrain for and pursue occupational activities in another workplace;

b) She has not required numerous medication trials to deal with her mental health issues;

c) The Appellant is young, and well educated, and has significant transferable skills; she has the capacity to seek employment in another environment and there is no evidence of any attempts by her to do so.

d) The Respondent acknowledges that the Appellant has required hospital admissions during 2011 to 2013, but submitted that these admissions related to increased stressors such as the death of two friends, the loss of her job in 2009, a tumultuous relationship, and excessive drinking;

e) The Appellant responds to support programs and medications offered during her hospitalizations and the GAF ranged from 60-65 which is indicative of only moderate difficulty in social and occupational function;

f) With compliance to treatment and abstinence from alcohol it is reasonable to expect that the Appellant would be able to return to some form of gainful employment.

ANALYSIS

[48] The Appellant must prove on a balance of probabilities that she had a severe and prolonged disability on or before December 31, 2013.

Severe

[49] The statutory requirements to support a disability claim are defined in subsection 42(2) of the CPP Act which essentially says that, to be disabled, one must have a disability that is "severe" and "prolonged". A disability is "severe" if a person is incapable regularly of pursuing any substantially gainful occupation. A person must not only be unable to do their usual job, but also unable to do any job they might reasonably be expected to do. A disability is "prolonged" if it is likely to be long continued and of indefinite duration or likely to result in death.

[50] The following cases provided guidance and assistance to the Tribunal in determining the issues on this appeal.

[51] The burden of proof lies upon the Appellant to establish on the balance of probabilities that on or before December 31, 2013 she was disabled within the definition. The severity requirement must be assessed in a "real world" context: *Villani v Canada (Attorney General,* 2001 FCA 248. The Tribunal must consider factors such as a person's age, education level, language proficiency, and past work and life experiences when determining the "employability" of the person with regards to his or her disability.

[52] The Appellant must not only show a serious health problem, but where there is evidence of work capacity, the Appellant must establish that she has made efforts at obtaining and maintaining employment that were unsuccessful by reason of her health: *Inclima v Canada* (Attorney General), 2003 FCA 117.

[53] An Appellant is not expected to find a philanthropic, supportive, and flexible employer who is prepared to accommodate her disabilities; the phrase in the legislation "regularly of pursuing any substantially gainful occupation" is predicated upon the Appellant's capacity of being able to come to the place of employment whenever and as often as is necessary for her to be at the place of employment; predictability is the essence of regularity: *MHRD v Bennett* (July 10, 1997) CP 4757 (PAB).

[54] Where there is evidence of work capacity, a person must show that effort at obtaining and maintaining employment has been unsuccessful by reason of the person’s health condition (*Inclima v. Canada (A.G.),* 2003 FCA 117).

[55] Even if it can be said that an Appellant is disabled by reason of the fact that she is an alcoholic, then her incapacity to pursue substantially gainful occupation might not be because of a disability but because of her failure to give up alcohol *Sandu v MHRD* (January 18, 2000) CP 12150 (PAB). Each case of alcohol-related disability should be considered as a unique case and dependent upon its own specific facts and circumstances: *Smallwood v MHRD* (July 20, 1999) CP 09274 (PAB).

[56] In light of what the Tribunal considers to be compelling medical evidence, the Tribunal accepts the Appellant's evidence that she has not been able to work in any gainful employment since she broke down at work in October 2009 because of what she perceived to be a toxic workplace environment. The Tribunal is satisfied that the continued emotional and psychological effect of the workplace harassment precludes her, not only from returning to her former employment, but also from pursuing any form of alternatively gainful employment.

[57] The medical reports establish numerous break-downs, hospital emergency attendances and admissions (some for suicide risk and/or attempts), treatment programs, as well as extensive specialist psychiatric treatment. The Appellant's oral evidence was entirely consistent with and confirmed by the extensive medical documents.

[58] The reports are not only supportive of a severe disability, but also demonstrate the Appellant's compliance with treatment:

- The CAMH progress notes confirm that the Appellant attended numerous group therapy sessions from July 2007 through to January 2009.
- The report from St. Joseph's Health Centre dated April 15, 2008 confirms that the Appellant completed a mindfulness-based stress reduction program.
- The progress notes from Women's College Hospital confirm that she attended for extensive treatment between October 23, 2009 and October 20, 2010.
- Dr. Shetty's crisis intake assessment at Woman's College Hospital on October 15, 2009 confirms that the Appellant had attended the CAMH for addiction treatment between November 2008 and March/April/2009.
- The letter from CAMH to Great West Life confirms that the Appellant has been admitted to and successfully completed a residential treatment program from April 7 to April 28.

- Dr. Shetty's March 2010 report which accompanied the CPP application reported that the Appellant "always follows through with medical suggestions and is adherent to treatments."

- On June 30, 2010 the Appellant underwent a crisis intervention assessment at CAMH for suicide risk and financial crisis.

- The Appellant attended for an overnight sleep study at the MedWest Medical Centre on January 10, 2011.

- The discharge summary prepared by Dr. Shugar indicates that the Appellant was admitted to CAMH on April 29, 2011 (presenting to the emergency department with depression, suicidal ideation, and confusion) and discharged on June 9, 2011.

- On January 2, 2012 Dr. Shugar reported the Appellant's relevant conditions to be major depression, generalized anxiety disorder, social phobia, and PTSD.

- A discharge summary prepared by Dr. Shugar indicates that the Appellant was admitted to CAMH on May 11, 2012 and discharged on June 5, 2012. The summary indicates that the Appellant had been drinking excessively, had been subject to abuse, and had thoughts of suicide. The diagnosis was substance abuse (alcohol), adjustment disorder with depressed mood and anxious mood, major depression, and complex post-traumatic stress disorder.

- A progress note dated April 4, 2013 from Dr. Balchard indicates that the Appellant had been admitted to the CAMH, alcohol dependence clinic, on March 19, 2013 and that the interaction end date was April 4, 2013.

- Dr. Balchard's April 18, 2013 note confirms that the Appellant had attended for a daily detox program.

- Dr. Balchard's progress note dated October 8, 2013 confirms that the Appellant had been assessed at the CAMH emergency department on October 1st because of severe agitation due to sudden discontinuation of both Cipralex and Wellbutrin.

[59] The Tribunal has carefully considered the issues relating to the Appellant's alcohol dependence. The Tribunal has considered whether the Appellant's incapacity to pursue substantially gainful employment is the result of a destructive life choice in failing to give up alcohol *Sandu (supra)* or whether, on the specific facts of the case, her alcohol dependence should be considered to be a disabling medical condition.

[60] Having regard to the totality of the evidence, the Tribunal has determined that, in this case, the Appellant's alcohol dependence should be considered to be a disabling medical condition. The longstanding treatments and compliance by the Appellant as detailed in paragraph 58 above, confirm that the Appellant has made genuine good faith efforts to deal with her alcohol dependence. We also accept her oral evidence that she is now a member of AA, that she has arranged for a further assessment at CAMH, and that she will be joining a women's support group for people with addiction and mental health issues. Further, the Appellant's alcohol dependence is only one of multiple severe disabling mental health conditions which include major depression, generalized anxiety disorder, social phobia, and PTSD.

[61] The Tribunal is mindful that the Appellant is relatively young, that she has a good education, that she has an impressive employment record, and that she has numerous transferable skills. The Tribunal is satisfied, however, on the balance of probabilities, that the Appellant's multiple disabling mental health issues preclude her from pursuing any form of gainful employment on a consistent and predictable basis.

[62] The Tribunal has determined that the Appellant suffers from a severe disability in accordance with the CPP criteria.

Prolonged

[63] Having determined that the Appellant's disability is severe, the Tribunal must also make a determination on the prolonged criteria.

[64] The Appellant's multiple mental health issues have persisted since 2006, and despite very extensive treatment that has been little or no progress.

[65] The Appellant's disability is long continued and there is no reasonable prospect of improvement in the foreseeable future.

CONCLUSION

[66] The Tribunal finds that the Appellant had a severe and prolonged disability in October 2009, when she last worked. According to section 69 of the CPP, payments start four months after the date of disability. Payments start as of February 2010.

[67] The appeal is allowed.

Raymond Raphael
Member, General Division