

**Citation: *(Estate of) J. B. v. Minister of Employment and Social Development,***  
**2015 SSTGDIS 74**

**Date: July 16, 2015**

**File number: GT-120226**

**GENERAL DIVISION- Income Security Section**

**Between:**

**(Estate of) J. B.**

**Appellant**

**and**

**Minister of Employment and Social Development**  
**(formerly Minister of Human Resources and Skills Development)**

**Respondent**

**Decision by: Jeffrey Steinberg, Member, General Division - Income Security Section**

**Originally Scheduled To Be Heard by Videoconference on April 9, 2015**

## REASONS AND DECISION

### INTRODUCTION

[1] The Appellant's application for a *Canada Pension Plan* (CPP) disability pension was date stamped by the Respondent on August 15, 2011. The Respondent denied the application initially and upon reconsideration. The Appellant appealed the reconsideration decision to the Office of the Commissioner of Review Tribunals (OCRT) and this appeal was transferred to the Tribunal in April 2013. On April 8, 2015, the Appellant's daughter spoke with the Tribunal Case Management Officer (CMO) and advised that her father, the Appellant, passed away on March 6, 2015. She stated she wanted to take over the Appellant's appeal. She stated the Appellant had no Will, however she would submit a copy of the death certificate. She requested an adjournment in order to submit updated medical documentation.

### THE LAW

[2] Paragraph 3(1)(a) of the *Social Security Tribunal Regulations* (SST Regulations) states "[t]he Tribunal must conduct proceedings as informally and quickly as the circumstances and the considerations of fairness and natural justice permit."

[3] Subsection 3(2) of the SST Regulations provides that "[i]f a question of procedure that is not dealt with by these Regulations arises in a proceeding, the Tribunal must proceed by way of analogy to these Regulations."

[4] Section 6 of the SST Regulations says that "[a] party must file with the Tribunal a notice of any change in their contact information without delay."

[5] Section 12 of the SST Regulations specifies that "[i]f a party fails to appear at a hearing, the Tribunal may proceed in the party's absence if the Tribunal is satisfied that the party received notice of the hearing" and further provides that "[t]he Tribunal must proceed in a party's absence if the Tribunal previously granted an adjournment or postponement at the request of the party and the Tribunal is satisfied that the party received notice of the hearing."

[6] Section 28 of the SST Regulations states “[a]fter every party has filed a notice that they have no documents or submissions to file — or at the end of the applicable period set out in section 27, whichever comes first — the Income Security Section must without delay

- (a) make a decision on the basis of the documents and submissions filed; or
- (b) if it determines that further hearing is required, send a notice of hearing to the parties.”

## **ISSUE**

### **Whether the Appellant has abandoned the appeal?**

## **EVIDENCE**

[7] Further to the April 8, 2015 telephone conversation between the Appellant’s daughter and CMO, the Appellant’s daughter sent the Tribunal a copy of the death certificate.

[8] On April 10, 2015, the Tribunal sent the Appellant’s daughter a letter, which stated the following:

The Tribunal has adjourned the hearing previously scheduled for April 9, 2015 upon being informed by you that your father (the Appellant) has died. You have indicated you wish to pursue the appeal on the Appellant’s behalf.

In order that you may have standing before the Tribunal to pursue the appeal, the Tribunal must be satisfied that you are the legal representative of the Appellant’s estate. Therefore, please provide the Tribunal with proof that you are appointed under your late father’s will as his executrix, or, if there is no will, that you have applied to the court for a certificate of appointment of estate trustee without a will or are taking steps to do so.

Please provide the requested information no later than May 4, 2015.

[9] On April 10, 2015, the Appellant’s daughter sent the Tribunal documents in support of the Appellant’s appeal.

[10] On April 16, 2015, the Tribunal sent the Appellant's daughter a letter, which stated the following:

On April 10, 2015, you sent the Tribunal documents in support of the deceased Appellant's appeal. The Tribunal is returning these documents to you. Should you satisfy the Tribunal you have legal standing to continue the Appeal on behalf of the late Appellant's Estate as requested in the Tribunal letter dated April 10, 2015, you will have the opportunity to submit additional documentation to the Tribunal at a later date.

[11] As of the date of decision, the Appellant's daughter has not replied to the Tribunal's April 10, 2015 letter or provided confirmation that she has standing before the Tribunal to pursue the Appellant's appeal on behalf of his Estate.

### **ANALYSIS**

[12] Given the death of the Appellant prior to the hearing of his appeal, the failure of the Appellant's daughter to satisfy the Tribunal she has authority to maintain the appeal on behalf of his Estate, and the absence of any other individual coming forward with proof of authority to continue the appeal on behalf of his Estate, the Tribunal concludes that this appeal is abandoned.

[13] The Tribunal proceeds in this manner under the authority under subsection 3(2) of the SST Regulations which allows the Tribunal to proceed by way of analogy in questions of procedure that are not dealt with in the SST Regulations.

### **CONCLUSION**

[14] The Tribunal finds that the appeal is abandoned. This file will be closed.

Jeffrey Steinberg  
Member, General Division - Income Security