

**Citation: *B. P. v. Minister of Employment and Social Development*, 2015 SSTGDIS 108**

**Date: September 25, 2015**

**File number: GT-125723**

**GENERAL DIVISION - Income Security Section**

**Between:**

**B. P.**

**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**

## REASONS AND DECISION

### INTRODUCTION

[1] The Appellant's application for a *Canada Pension Plan* (CPP) disability pension was date stamped by the Respondent on June 4, 2012. 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 Social Security Tribunal (Tribunal) in April 2013. However, since April 22, 2015, the Tribunal has been unable to locate the Appellant or satisfy itself that the Appellant has received the Notice of Hearing.

### 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 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 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**

[7] Whether the Appellant has abandoned the appeal?

## **EVIDENCE**

[8] Correspondence sent by the Tribunal to the Appellant and her representative notifies them of their obligation, which is established under section 6 of the SST Regulations, to advise the Tribunal of any changes to their contact information and that the failure to do so may have a detrimental impact on the appeal.

[9] On April 22, 2015, the Notice of Hearing (the “Notice”) was sent by Express Post to both the Appellant and her representative, who reside at the same address. On May 11, 2015, both Notices were returned to the Tribunal and were marked “unclaimed”.

[10] On May 26, 2015, the Notice was sent to both the Appellant and her representative by regular mail. The envelope addressed to the representative had an incorrect postal code and that Notice was resent. Neither Notice was returned to the Tribunal.

[11] The Tribunal Case Management Officer (CMO) tried to contact the Appellant and her representative by telephone on May 26, 2015 and September 11, 2015. The CMO was unable to reach them as the phone was no longer in service.

## **ANALYSIS**

[12] The Appellant and her representative were notified in earlier correspondence that was successfully delivered to them and in the Notice of their obligation to notify the Tribunal of any changes to their contact information. They failed to do so.

[13] Following internal procedures adopted by the Tribunal, multiple attempts have been made to deliver the Notice to the Appellant and her legal representative and to contact them by telephone. The Tribunal has been unsuccessful in delivering the Notice to the Appellant and her

representative by registered mail or in contacting them by telephone. Although the Notice sent by ordinary mail to both the Appellant and her legal representative has not been returned to the Tribunal, the Tribunal is not satisfied, given the fact of the unclaimed registered mail and the Tribunal's inability to reach the Appellant and her representative by telephone, that either the Appellant or her legal representative actually received the Notice.

[14] The Tribunal is required to conduct proceedings as informally and quickly as the circumstances and the considerations of fairness and natural justice permit.

[15] Given that the Appellant and her legal representative have failed to comply with the requirements of section 6 of the SST Regulations by not providing updated telephone contact information and that neither the Appellant nor her representative have responded to the Tribunal's efforts to contact them, the Tribunal finds that the Appellant has abandoned the appeal.

[16] 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**

[17] The Tribunal finds that the Appellant has abandoned the appeal and the file will be closed.

Jeffrey Steinberg  
Member, General Division - Income Security