

Citation: *Minister of Employment and Social Development v. B. D.*, 2015 SSTAD 1453

Date: December 18, 2015

File number: AD-15-1093

APPEAL DIVISION

Between:

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

Appellant

and

B. D.

Respondent

Decision by: Valerie Hazlett Parker, Member, Appeal Division

REASONS AND DECISION

[1] The Respondent applied for a *Canada Pension Plan* disability pension and claimed that she was disabled as a result of injuries from a motor vehicle accident. The Appellant denied her application initially and upon reconsideration. The Respondent appealed the reconsideration decision to the Office of the Commissioner of Review Tribunals. The appeal was transferred to the General Division of the Social Security Tribunal pursuant to the *Jobs, Growth and Long-term Prosperity Act*. The General Division held a hearing and decided that the Respondent was disabled.

[2] The Appellant was granted leave to appeal the General Division decision on the basis that the General Division may have erred in law by not considering that the Respondent's minimum qualifying period (the date by which a claimant must be found to be disabled in order to receive the disability pension) was achieved by application of a division of unadjusted pensionable earnings.

[3] The parties to this appeal have requested that the Member make a decision pursuant to Section 18 of the *Social Security Tribunal Regulations* based on the agreement dated December 17, 2015. The agreement reads as follows:

(a) Pursuant to subparagraph 44(1)(b)(ii) of the *Canada Pension Plan*, the Respondent is found to be disabled within the meaning of the *Canada Pension Plan* by October 2008, a date before December 31, 2011 when she last met the contributory requirements of the *Canada Pension Plan*;

(b) However, pursuant to subsection 55.2(9) of the *Canada Pension Plan*, since a division of unadjusted pensionable earnings (credit split) was required for the Respondent to attain the Minimum Qualifying Period (MQP), payment can only commence the month after the application for credit split was received. The Respondent's application for credit split was received by the Appellant in December 2011. Accordingly, payment can only commence in January 2012.

[4] The appeal is allowed in accordance with the agreement.

Valerie Hazlett Parker
Member, Appeal Division