



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. B. v. Minister of Employment and Social Development*, 2016 SSTADIS 83

Date: February 24, 2016

File number: AD-15-1315

APPEAL DIVISION

Between:

C. B.

Applicant

and

Minister of Employment and Social Development

Respondent

Decision by: Hazelyn Ross, Member, Appeal Division

DECISION AND REASONS

[1] The Appeal is allowed.

[2] The matter is remitted back to the General Division for redetermination by a different Member.

INTRODUCTION

[3] The Respondent applied for a *Canada Pension Plan*, (CPP), disability pension; however, the Applicant denied her claim, both initially and upon reconsideration. She appealed to the Social Security Tribunal of Canada, (the Tribunal). On November 2, 2015 a Member of the General Division issued a decision that denied her appeal.

[4] The Applicant sought leave to appeal to the Appeal Division on the basis that the General Division had erred in that it failed to take into account the impact of her testimony and did not conduct an oral hearing. The Appeal Division granted leave to appeal, finding that on this ground the Applicant may have a reasonable chance of success on appeal.

[5] After leave to appeal was granted, the Respondent filed a “Consent” with the Appeal Division in which it was submitted that as the General Division “did not address the Appellant’s specific request for an oral hearing” when it chose the form of hearing, this “may have resulted in a denial of procedural fairness and natural justice to the Appellant.” Accordingly, the Respondent was consenting to the matter being referred back to the General Division for a hearing *de novo*.

DECISION

[6] Having considered the Consent filed by the Respondent. And also having considered the General Principles set out in section 2 and subsection 3(a) of the *Social Security Tribunal Regulations* SOR/2013-60 which respectively require that the Tribunal interpret its *Regulations* in a manner that secures the just, most expeditious and least expensive determination of appeals and applications; and per subsection 3(a) enjoins the Tribunal to conduct its proceedings as informally and quickly as the circumstances and the considerations of fairness and natural justice permit, the Appeal Division agrees that in this case, these

objectives can be obtained by proceeding in the manner suggested in the Respondent's consent. Accordingly, the Appeal Division allows the appeal and remits the matter back to the General Division.

CONCLUSION

[7] The Appeal is allowed.

[8] The matter is referred back to the General Division for redetermination by a different Member of the General Division.

Hazelyn Ross
Member, Appeal Division