



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *L. M. v. Minister of Employment and Social Development*, 2016 SSTADIS 234

Tribunal File Number: AD-16-230

BETWEEN:

L. M.

Appellant

and

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

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Janet Lew

DATE OF DECISION: June 27, 2016

REASONS AND DECISION

[1] I granted leave to appeal on May 6, 2016, on the grounds that the General Division erred in determining the deemed date of disability to be October 2009 and the commencement date of payment of a Canada Pension Plan disability pension to be four months later.

[2] The Appellant had alleged that the General Division also erred in its calculation of the monthly disability pension and the period of retroactivity of payments. She argued that the amount of the monthly pension should be based on the contributions she might have made to age 65, had she not become disabled, and should be set at a rate that sustains a certain standard of living. I declined to grant leave to appeal on these grounds, as there is no allowance for any contributions which an appellant might have otherwise made had she continued working, and as there is no consideration to ensure a certain standard of living.

[3] Within 45 days after the day on which leave to appeal is granted, parties to an appeal may file submissions or file a notice stating that they have no submissions to file. On June 17, 2016, the Respondent conceded the appeal on the basis upon which leave to appeal had been granted. The Respondent requested that the Appeal Division endorse a deemed disability date of October 2008 and that payment of a Canada Pension Plan disability pension start as of February 2009. On June 20, 2016, the Appellant indicated she did not have any additional submissions. Having determined that no further hearing is required, the appeal before me is proceeding pursuant to subsection 43(a) of the *Social Security Tribunal Regulations*.

[4] The General Division found that the Appellant had a severe and prolonged disability in December 2000. The General Division held that, pursuant to paragraph 42(2)(b) of the *Canada Pension Plan*, a person cannot be deemed disabled more than fifteen months before the Respondent received the application for a disability pension. The application for a disability pension was received by the Respondent in January 2010, and the earliest the Appellant therefore could be deemed disabled was October 2008 and according to section 69 of the *Canada Pension Plan*, payment of a disability pension

should commence four months later, in February 2009. Clearly, the General Division likely made a typographical error or a miscalculation, when it found the deemed date to be October 2009.

CONCLUSION

[5] Subsection 59(1) of the *Department of Employment and Social Development Act* permits the Appeal Division to give the decision that the General Decision should have given. That relief is appropriate in the circumstances of this case. The appeal is allowed as follows. In accordance with paragraph 42(2)(b) of the *Canada Pension Plan*, the Appellant is deemed disabled in October 2008 with an effective payment date of February 2009.

Janet Lew

Member, Appeal Division