



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. P. v. Minister of Employment and Social Development*, 2017 SSTADIS 237

Tribunal File Number: AD-16-764

BETWEEN:

P. P.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Janet Lew

DATE OF DECISION: May 25, 2017

REASONS AND DECISION

[1] The General Division determined that the Appellant was not eligible for a disability pension under the *Canada Pension Plan*, as it had found that her disability was not “severe” by the end of her minimum qualifying period on December 31, 2015.

[2] The Appellant sought leave to appeal the decision of the General Division, alleging that, in overlooking her personal circumstances, it had failed to conduct a “real world” analysis, as set out by the Federal Court of Appeal in *Villani v. Canada (Attorney General)*, [2002] 1 FCR 130, 2001 FCA 248. The Appellant submitted that she has a significant language barrier and significant learning limitations, as well as a considerable lack of education, transferable skills and work experience. I granted leave to appeal on this issue, as I was satisfied that the appeal had a reasonable chance of success.

[3] The Respondent is of the position that the Appellant is not disabled and that the General Division properly concluded that the Appellant had failed to establish that she was incapable regularly of pursuing any substantially gainful occupation before the end of her minimum qualifying period. However, the Respondent acknowledged that it would be appropriate to refer the matter back to the General Division to determine whether the Appellant is disabled within the meaning of the *Canada Pension Plan*, “in consideration of the governing appellate jurisdiction, including *Villani v. Canada (AGC)* 2001 FCA 248.”

[4] Given the parties’ position in this matter, the appeal is allowed and the matter is returned to the General Division for a redetermination by a different member.

Janet Lew
Member, Appeal Division