



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. D. v Minister of Employment and Social Development*, 2018 SST 1412

Tribunal File Number: GP-17-1513

BETWEEN:

G. D.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Brian Rodenhurst

Date of decision: June 28, 2018

DECISION

[1] The Claimant is not entitled to a Canada Pension Plan (CPP) disability pension.

OVERVIEW

[2] The Claimant based her application for a disability benefit on medical conditions that included almost total blindness in the left eye and diabetic neuropathic foot ulcers. She maintained this interfered with her ability to stand and walk for any substantial length of time. At the time of her application she indicated she was collecting regular Employment Insurance.

[3] The Minister received the Claimant's application for the disability pension on September 15, 2016. The Minister denied the application initially and on reconsideration. The Claimant appealed the reconsideration decision to the Social Security Tribunal.

[4] To qualify for a CPP disability pension, the Claimant must meet the requirements that are set out in the CPP. More specifically, the Claimant must be found disabled as defined in the CPP on or before the end of the minimum qualifying period (MQP). The calculation of the MQP is based on the Claimant's contributions to the CPP. I find the Claimant's MQP to be December 31, 1993.

ISSUE(S)

[5] Did the Claimant's conditions result in the Claimant having a severe disability, meaning incapable regularly of pursuing any substantially gainful occupation by December 31, 1993?

[6] If so, was the Claimant's disability also long continued and of indefinite duration by December 31, 1993?

ANALYSIS

[7] Disability is defined as a physical or mental disability that is severe and prolonged¹. A person is considered to have a severe disability if incapable regularly of pursuing any substantially gainful occupation. A disability is prolonged if it is likely to be long continued and

¹ Paragraph 42(2)(a) *Canada Pension Plan*

of indefinite duration or is likely to result in death. A person must prove on a balance of probabilities their disability meets both parts of the test, which means if the Claimant meets only one part, the Claimant does not qualify for disability benefits.

Severe disability

[8] I must assess the severe part of the test in a real world context². This means that when deciding whether a person's disability is severe, I must keep in mind factors such as age, level of education, language proficiency, and past work and life experience. Medical evidence will still be required as will evidence of employment efforts and possibilities. The Claimant was only 34 years of age at the time of the MQP. In determining whether the Claimant's disability is severe I note the Claimant was engaged in employment in the real world since the MQP. There is not any medical evidence at the time of the MQP. The Claimant was only 34 years of age at the time of the MQP and worked for a real world employer after the MQP. I find when assessing the severe part of the test she exhibited the ability to work in a real world context after December 31, 1993.

Objective medical evidence

[9] A claimant must provide some objective medical evidence of his or her disability.³ The objective medical evidence must relate to the date of the MQP as well as continuously since. The Standard Medical Report authored by Dr. Smith, Family Physician is dated August 23, 2010. Dr. Smith commended treating the Claimant for her main medical condition in December 2013 and had known the Claimant since October 2001. The Doctor noted deterioration in her condition and the development of medical issues over the "past two years". There is not any reference to a medical condition at the time of or near the time of the MQP. A medical report authored by Eastern Health was dated February 7, 2014. The Report noted the Claimant had been diabetic for 14 years (2000) which is 7 years post-MQP. There is not any information in the Report that refers to her medical condition near or at the time of the MQP. A review of the medical documentations filed with the Tribunal shows there is not any medical information that relates to

² *Villani v. Canada (A.G.)*, 2001 FCA 248

³ *Warren v. Canada (A.G.)*, 2008 FCA 377

the MQP. I find there insufficient objective medical evidence to prove a severe disability as defined in the CPP at the relevant time period.

Post-MQP earnings

[10] The Claimant in her Questionnaire noted she stopped working due to her inability to walk and stand for long periods on April 15, 2016. She further wrote on the Questionnaire (September 2, 2016) that the date she could no longer work due to her medical condition was April 15, 2016. This date is years after the MQP. The Claimant indicated on her Questionnaire that she was in receipt of regular Employment Insurance benefits commencing in August 2016 and she was still collecting E.I. when she completed the Questionnaire. The Claimant was required to sign confirmation that she was ready, willing and able to work in order to qualify for regular E.I. benefits. I find the written evidence of the Claimant indicates she was capable regularly of pursuing any substantially gainful occupation after the date of the MQP.

CONCLUSION

[11] The appeal is dismissed.

Brian Rodenhurst
Member, General Division - Income Security