



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *T. H. v Minister of Employment and Social Development*, 2019 SST 1677

Tribunal File Number: GP-18-2077

BETWEEN:

T. H.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Raymond Raphael

Teleconference hearing on: October 7, 2019

Date of decision: October 9, 2019

DECISION

[1] The Claimant is not eligible for a *Canada Pension Plan* (CPP) disability pension.

OVERVIEW

[2] The Claimant was 53 years old when the Minister received her application for the CPP disability pension in January 2018. In her disability questionnaire, signed on December 1, 2017, she stated that she had last worked as a logistics coordinator from June 2013 to October 2016. She stated that she had not been able to work since October 2016 because of carpal tunnel syndrome. She also suffered from depression and anxiety.¹

[3] However, the Claimant testified at the hearing that she had returned to work as a property management assistant and did not stop working until January or February 2018. Her record of employment from the property manager indicates that she started working for it in October 2016.² Her CPP contribution record indicates earnings of \$41,891 in 2016, \$51,861 in 2017, and \$8,633 in 2018.³

[4] The Minister denied the application initially and upon reconsideration. The Claimant appealed to the Social Security Tribunal.

[5] For the purposes of the CPP, a disability is a physical or mental impairment that is severe and prolonged.⁴ The Claimant's disability is severe if it causes her to be incapable regularly of pursuing any substantially gainful occupation. Her disability is prolonged if it is likely to be long continued and of indefinite duration.

[6] For the Claimant to succeed, she must prove that it is more likely than not that she became disabled by the end of her Minimum Qualifying Period (MQP), which is calculated based on his contributions to the CPP. Based on her most recent Record of Contributions, her MQP will end on December 31, 2021.⁵

¹GD2-92 to 94

²GD3-14

³GD4

⁴ Paragraph 42(2)(a) *Canada Pension Plan*

⁵ Record of Contributions: GD2-83

[7] Since this date is in the future, the Claimant must prove that she is disabled as of the date of the hearing.

ISSUES

1. Did the Claimant's medical conditions result in her being incapable regularly of pursuing any substantially gainful employment by the date of the hearing.
2. If so, is her disability long continued and of indefinite duration?

ANALYSIS

Severe disability

[8] I must focus on the Claimant's condition as of the date of hearing. The case law is clear that medical evidence is required to support a claim that a disability is severe.⁶

[9] The Claimant stated that she last worked full-time as a property management assistant. She worked 7 ½ hours per day, for five days a week. She couldn't continue working after February 2018, because of pain in both of her hands. She was able to make phone calls and do a few computer entries, but she couldn't "stuff" envelopes. She was also forgetting things.

[10] There is no medical evidence in the hearing file to demonstrate that she has undergone any significant treatment for carpal tunnel syndrome. In the past, she refused to undergo surgery for this condition.. The Claimant testified that she has a medical appointment on October 10th (3 days after the hearing), to assess her condition and determine whether she will proceed with the surgery.

[11] With regard to her mental health conditions, she is now going for group therapy once a week for depression and anxiety. She is not taking any medications for those conditions, even though Dr. Grabovic, a psychiatrist, recommended that she do so.⁷ She is not seeing a psychiatrist. Her only medications are over the counter Advil for pain, vitamins, and nutritional supplements.

⁶ *Villani* 2001 FCA 248; *Warren*, 2008 FCA 377

⁷ GD1-9

[12] Her CPP disability application is premature. She has not had significant treatment for her carpal tunnel syndrome. She is not taking medications for the anxiety and depression. There is no medical evidence in the hearing file after her July 2018 assessment by Dr. Grabovic. Her MQP (last date that she will qualify for CPP disability based on her present contributions) is more than two years in the future.

[13] In the absence of medical evidence about her current condition, she is unable to show that she lacks regular work capacity. In addition, it would appear that significant treatment for her carpal tunnel syndrome is only beginning. She is not following treatment recommendations for taking medications.

[14] The Claimant has failed to establish that it is more likely than not that he suffers from a severe disability in accordance with the CPP requirements as of the date of hearing.

[15] Since she has failed to establish a severe disability, I do not need to make a determination on the prolonged criteria.

CONCLUSION

[16] The appeal is dismissed.

Raymond Raphael
Member, General Division - Income Security