



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *GH v Minister of Employment and Social Development*, 2020 SST 1127

Tribunal File Number: GP-19-1258

BETWEEN:

**G. H.**

Appellant (Claimant)

and

**Minister of Employment and Social Development**

Minister

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security Section**

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Decision by: Raymond Raphael

Claimant represented by: Neil King

Minister represented by: Heather Carr

Teleconference hearing on: January 14, 2020

Date of decision: January 17, 2020

## **DECISION**

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

## **OVERVIEW**

[2] The Claimant was 56 years old when she applied for a CPP disability pension in June 2016. She last worked as a home care worker in December 2009. She stated that she had been unable to work since 2011 because of inflammatory arthritis and a blood clot in her lung.<sup>1</sup> The Minister denied the application initially and upon reconsideration, and the Claimant appealed to the Social Security Tribunal.

[3] On December 19, 2018, the General Division dismissed the appeal based on the written record. The Claimant appealed to the Appeal Division. On July 23, 2019, the Appeal Division allowed the appeal and referred this matter back to the General Division for a new hearing. The Appeal Division decided that the General Division had breached procedural fairness because it did not give the Claimant the opportunity to provide oral testimony.

[4] For the purposes of the CPP, a disability is a physical or mental impairment that is severe and prolonged.<sup>2</sup> 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.

[5] For the Claimant to succeed, she must prove that it is more likely than not that she became disabled on or before the end of her Minimum Qualifying Period (MQP), which is calculated based on her contributions to the CPP.

[6] After 1994, the Claimant had enough earnings to make valid contributions to the CPP in 1998, 2001, 2002.<sup>3</sup> She also had earnings of \$2,767 in 2003.<sup>4</sup> Her earnings in 2003 were below the minimum level of earnings to help her meet the contributory requirements; however, if she

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<sup>1</sup> GD2-121 to 123

<sup>2</sup> Paragraph 42(2)(a) *Canada Pension Plan*

<sup>3</sup> Record of contributions: IS6-8

<sup>4</sup>Earnings details: GD2-70

became disabled in 2003 before the end of August 2003, she will have an MQP of August 31, 2003.

[7] The Claimant had earning of \$5,287 in 2007, \$14,227 in 2008, and \$13,996 in 2009. However, this does not improve her MQP since she did not have sufficient earnings in four of the last six years.

## **ISSUES**

1. Did the Claimant's medical conditions result in her being incapable regularly of pursuing any substantially gainful employment starting in 2003 and before the end of August 2003?
2. If so, is her disability long continued and of indefinite duration?

## **ANALYSIS**

[8] The Minister acknowledges that the Claimant is now severely disabled. However, CPP disability is an insurance regime based on contributions. The Claimant is covered only for conditions that became severe during the period from January 1, 2003 to August 31, 2003 (the relevant period). She is not covered for conditions that became severe afterwards.

[9] The case law is clear that medical evidence is required to support a claim that a disability is severe.<sup>5</sup> Although the medical evidence supports that the Claimant now suffers from a severe disability<sup>6</sup>, there is no medical evidence to establish that she suffered from a severe disability during the relevant period.

[10] Further, the Claimant has frankly acknowledged that she was not severely disabled in 2003. She stated that she stopped working in May 2003 to look after her ill husband.<sup>7</sup> Her husband died in 2004. She then took some time to get her affairs in order, and returned to work from 2007 to 2009. In her disability questionnaire, she stated she became unable to work in

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<sup>5</sup> *Villani* 2001 FCA 248; *Warren*, 2008 FCA 377

<sup>6</sup> GD2-101 to 104; Dr. Paul's May 2016 report

<sup>7</sup> GD1-7: letter dated August 7, 2017

2011.<sup>8</sup> At the hearing, she stated that she didn't work in 2003 because her husband was ill, and she isn't working now because she is ill.

[11] The Employer Questionnaire signed September 17, 2012 indicates that the Claimant worked as a homecare worker from June 2007 until the client she was caring for passed away. She worked 18 hours per week and earned \$10.92 per hour. The questionnaire indicated that the Claimant worked part-time because that was all the work available, her attendance was good, she was not absent for medical reasons, her work was satisfactory, she did not require special equipment or special arrangements, she did not require help from co-workers, and her medical condition did not affect her ability to handle the job demands.<sup>9</sup> This confirms that the Claimant had the regular capacity to work after 2003.

[12] Since there is no evidence to establish that the Claimant suffered from a severe disability starting in 2003 and by August 31, 2003, it is not necessary for me to apply the "real world" approach.<sup>10</sup>

[13] The Claimant has failed to establish that it was more likely than not that she had a severe disability in accordance with the CPP requirements.

## **CONCLUSION**

[14] The appeal is dismissed.

Raymond Raphael  
Member, General Division - Income Security

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<sup>8</sup> GD2-123

<sup>9</sup> GD2-291 to 293

<sup>10</sup> *Giannaros v. Canada (Minister of Social Development)*, 2005 FCA 187