



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *T. L. v and Minister of Employment and Social Development*, 2020 SST 421

Tribunal File Number: GP-19-142

BETWEEN:

**T. L.**

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: Patrick O'Neil

Teleconference hearing on: February 19, 2020

Date of decision: March 2, 2020

## **DECISION**

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

## **OVERVIEW**

[2] The Minister received the Claimant's application for the disability pension on January 25, 2018. The Minister denied the application initially and on reconsideration. The Claimant appealed the reconsideration decision to the Social Security Tribunal.

[3] To qualify for a CPP disability pension, the Claimant must meet the requirements that are set out in the CPP. More specifically, she 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 her contributions to the CPP. I find her MQP to be December 31, 2020. As her MQP is after the hearing date, I must decide if it is more likely than not she was disabled by the hearing date.

## **ISSUE(S)**

[4] Did the Claimant's conditions result in her having a severe disability, meaning incapable regularly of pursuing any substantially gainful occupation by the hearing date?

[5] If so, was her disability also long continued and of indefinite duration by the hearing date?

## **ANALYSIS**

[6] Disability is defined as a physical or mental disability that is severe and prolonged<sup>1</sup>. 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 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, she does not qualify for disability benefits.

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<sup>1</sup> Paragraph 42(2)(a) *Canada Pension Plan*

## **Severe disability**

### **The Claimant's disability was not severe by the hearing date.**

[7] The Claimant is thirty-eight years old. She has a high school education and college Hotel and Restaurant Management and Esthetician diplomas. She last worked as a housekeeper in a hotel from January 1, 2017 to June 24, 2017, and has not worked since. Her duties included cleaning rooms and common areas. She noted in the Questionnaire for Disability Benefits (Questionnaire) dated November 10, 2017<sup>2</sup>, and testified, she stopped working June 24, 2017 to care for her daughter. School had ended for the summer and she had no childcare.

[8] The Claimant's work history prior to January 2017 included delivery driver for a pharmacy, customer service in a nail and tanning salon and a Subway sandwich outlet, busgirl in a bar, and esthetician. She stopped working at these jobs either because she was laid off, did not enjoy the work and/or her coworkers, or for higher wages. She noted in the Questionnaire that she could no longer work due to her medical condition in August 2017. The illness/impairment that has prevented her working since is heart palpitations.

[9] The Claimant collected regular Employment Insurance benefits after she stopped working beginning September 4, 2017. I asked her if she was ready, willing, and able to work after June 24, 2017. She said she could have worked, but needed daycare. If daycare had been available, she would have continued working, but not at the hotel, as she wanted to advance her career.

[10] The Claimant has experienced intermittent heart palpitations since a teenager. She first saw a cardiologist in October 2001. He prescribed a beta-blocker for the palpitations. She next saw a cardiologist in 2017. She has not taken medication, or been treated for heart palpitations in the past two years. She acknowledged cardiac investigations to date have not shown a heart condition that precludes working.

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<sup>2</sup> GD2 pages130-136

[11] I asked the Claimant if she looked for work since she stopped working in June 2017. She looked a “little”. She acknowledged there are jobs she could/can do such as receptionist, secretary, and other clerical type positions. She noted in the Questionnaire she planned to work in the near future, possibly running her own business. She has not pursued running her own business. She does not want to return to school.

[12] The Claimant’s symptoms are intermittent (paroxysmal). She is sometimes symptom free for several months. Her employers/co-workers often did not know she had a medical condition, as she worked for months without any issues. Her condition does not preclude her working, but some of her employers laid her off after learning she has a medical condition. She just needed a short break after onset of palpitations, after which she could return to work.

[13] Dr. Vornberger, the Claimant’s family physician since 1991, completed the initial medical report dated December 11, 2017<sup>3</sup>. His sole diagnosis was paroxysmal supraventricular tachycardia (PSVT). He referred her to Dr. Andrew for a cardiac assessment. Current medication was acebutolol (beta-blocker). Dr. Vornberger reported the Claimant’s condition was controlled. She has not had a flare-up since 2010. He noted May 7, 2019<sup>4</sup> that she has a heart condition that sometimes causes symptoms that can make it difficult to work during these episodes.

[14] Dr. Murphy, cardiologist, reported October 1, 2001<sup>5</sup> he saw the Claimant regarding recurrent episodes of PSVT over the past two years. A Holter monitor and echocardiogram showed no abnormalities. He recommended a beta-blocker. She at times gets one or two episodes a week, and at other times less frequently. She is not too symptomatic with episodes, but occasionally feels shortness of breath. She next saw a cardiologist in December 2017.

[15] Dr. Andrew, cardiologist, reported December 21, 2017<sup>6</sup> he saw the Claimant at the request of Dr. Vornberger with a history of PSVT since her teenage years. He noted her episodes are very short, blowing over within a few seconds to minutes. Dr. Andrew indicated recent investigations showed normal heart function and no significant cardiac abnormalities.

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<sup>3</sup> GD2 pages 115-118

<sup>4</sup> GD6 page 7

<sup>5</sup> GD2 pages 123-124

<sup>6</sup> GD2 pages 30-33

[16] I must assess the severe part of the test in a real world context<sup>7</sup>. 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. The Claimant is just thirty-eight years old, being much younger than the traditional retirement age in Canada. She is well educated, and proficient in English. She has a variety of work and life experiences, and has transferable skills acquired through her education, work, and life experiences. I find the Claimant's personal factors do not limit her residual capacity to work by the hearing date.

[17] I must assess the Claimant's condition in its totality, which means I must consider all of the possible impairments, not just the biggest impairments or the main impairment<sup>8</sup>. The evidence of the Claimant is to that the only impairment that has prevented her from working since August 2017 is heart palpitations. Her sole medical diagnosis is PSVT.

[18] Where there is evidence of work capacity, a person must show that efforts at obtaining and maintaining employment have been unsuccessful because of the person's health condition<sup>9</sup>.

[19] The Claimant worked many years with PSVT. The condition did not prevent her working at the various jobs she worked at since 2003. She stopped working June 24, 2017, for non-medical reasons, namely to care for her infant child. She could have/would have continued to work if daycare had been available. There is no evidence her condition worsened after June 24, 2017. Treatment since onset has been conservative. For the past two years she has not taken medication or been treated for PSVT. She has not made any significant efforts to look for work, or attend a retraining or educational upgrading program. She testified she is capable of working at clerical type positions. I find the medical reports and the Claimant's testimony evidence of work capacity by the hearing date.

[20] I find the Claimant has not shown that efforts at obtaining and maintaining employment since she stopped working for non-medical reasons in June 2017 have been unsuccessful because of her health condition. As she has not shown efforts at obtaining and maintaining employment

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<sup>7</sup> *Villani v. Canada (A.G.)*, 2001 FCA 248

<sup>8</sup> *Bungay v. Canada (A.G.)*, 2011 FCA 47

<sup>9</sup> *Inclima v. Canada (A.G.)*, 2003 FCA 117

have been unsuccessful because of her health condition, I am unable to find her disability severe by the hearing date.

[21] The onus is on the Claimant to establish on the balance of probabilities her entitlement to CPP disability benefits. I find she failed to establish she was incapable regularly of pursuing any substantially gainful occupation by the hearing date. Accordingly, I find she did not have a severe disability by the hearing date.

**Prolonged disability**

[22] As I found that the Claimant's disability was not severe by the hearing date, it is not necessary to make a finding on the prolonged criterion.

**CONCLUSION**

[23] The appeal is dismissed.

Patrick O'Neil  
Member, General Division - Income Security