



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *D. O. v Minister of Employment and Social Development*, 2020 SST 371

Tribunal File Number: AD-20-121

BETWEEN:

D. O.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: April 27, 2020

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] D. O. (Claimant) applied for a Canada Pension Plan disability pension in June 2018. The Minister initially refused the application, but granted it after the Claimant requested reconsideration. The Minister decided that payment of the pension should begin in July 2017.

[3] The Claimant appealed the Minister's decision regarding when payment should begin to the Tribunal. The Tribunal's General Division dismissed the appeal. It decided that the Minister had granted the Claimant the maximum retroactivity of payment allowed under the *Canada Pension Plan*.

[4] The Claimant's application for leave to appeal this decision to the Tribunal's Appeal Division is refused. The appeal does not have a reasonable chance of success because the Claimant has not presented a ground of appeal under the *Department of Employment and Social Development Act* (DESD Act).

PRELIMINARY MATTER

[5] The parties attended a Case Conference prior to this decision being made. At this conference all of the parties' issues were discussed and the relevant law was explained. The Claimant's ground of appeal was also clarified.

ISSUE

[6] Does the appeal have a reasonable chance of success because the Claimant was given incorrect information or advice by Service Canada?

ANALYSIS

[7] The DESD Act governs the Tribunal's operation. It provides rules for appeals to the Appeal Division. An appeal is not a re-hearing of the original claim. Instead, I must decide whether the General Division:

- a) failed to provide a fair process;
- b) failed to decide an issue that it should have, or decided an issue that it should not have;
- c) made an error in law; or
- d) based its decision on an important factual error.¹

[8] However, before I can decide an appeal, I must decide whether to grant leave (permission) to appeal. The DESD Act says that leave to appeal must be refused if the appeal does not have a reasonable chance of success.² Therefore, to be granted leave to appeal the Claimant must present at least one ground of appeal (reason for appealing) that falls under the DESD Act and on which the appeal has a reasonable chance of success.

[9] The Claimant agrees that the General Division decision is correct. However, the Claimant argues that leave to appeal should be granted because he was given incorrect information and advice at Service Canada when he applied for the disability pension.

[10] This is not a ground of appeal under the DESD Act. I have read the General Division decision and the documents filed with the Tribunal. The General Division did not overlook or misconstrue any important information.

[11] There is no suggestion that the General Division made an error in law or failed to provide a fair process.

¹ This paraphrases the grounds of appeal set out in s. 58(1) of the DESD Act

² DESD Act s. 58(2)

[12] The General Division decision correctly states that the Tribunal was created by legislation, and as such only has legal authority over matters granted to it in the legislation.³ It has no legal authority to grant a remedy for erroneous advice or administrative error made by someone at Service Canada.

CONCLUSION

Leave to appeal is therefore refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	D. O., Self-represented
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³ General Division decision at para. 7