



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *MG v Minister of Employment and Social Development*, 2020 SST 898

Tribunal File Number: GP-20-539

BETWEEN:

M. G.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Carol Wilton

Date of decision: May 31, 2020

DECISION

[1] The Claimant has not established new material facts.

OVERVIEW

[2] The Claimant was 60 years old when he applied for a *Canada Pension Plan (CPP)* disability pension in June 2016. His last job was as a psychotherapist. He stated that his last day at work was in April 2016. He also stated that the conditions preventing him from working were major depressive disorder, sleep problems, chronic pain, acid reflux and high cholesterol. The Minister denied the application initially and on reconsideration. The Claimant appealed to the Social Security Tribunal (Tribunal).

[3] On December 18, 2018, a Member of the General Division heard the appeal. On January 24, 2019, the General Division allowed the appeal. A corrigendum dated April 5, 2019, amended the date of onset of the disability as it appeared in the decision of January 24, 2019. This did not affect the amount of the Claimant's entitlement, which was based on the date of application, not the date of onset.

[4] The Claimant's minimum qualifying period (MQP) – the date by which he had to prove he was disabled, was December 31, 2003, with a possible prorated date of April 2014. In the decision of April 5, 2019, the Tribunal Member found that the Claimant was disabled as of his prorated MQP ending in April 2014. The Tribunal Member granted the Claimant the maximum back payment to July 2015 based on his date of application.¹

[5] This appeal involves an application by the Claimant to amend or rescind the General Division decision. He believes that he is entitled to greater retroactivity.

[6] I decided this application based on the documents and submissions filed because an oral hearing was not required, there were no gaps in the information in the file, and there was no need for more clarification.

¹ Paragraph 42(2)(b) and section 69 of the CPP

ISSUE

[7] Has the Claimant established new material facts?

ANALYSIS

Test for New Facts

[8] I may amend or rescind the General Division decision if the Claimant presents a new material fact that could not have been discovered at the time of the hearing with the exercise of reasonable diligence.²

[9] The Claimant must submit new information that was not readily accessible at the time of hearing. The new information must also be material – that is, it could reasonably be expected to have affected the outcome of the hearing if the Tribunal Member had known about it at the time.

[10] A new facts application is not an appeal, nor is it an opportunity to reargue the merits of a claimant’s disability claim. Instead, it is a tool designed to allow the Tribunal to reopen one of its decisions if new and relevant evidence comes to light that existed but, for whatever reason, was previously undiscoverable by the exercise of reasonable diligence.³

[11] In his new facts application, dated March 11, 2020, the Claimant did not attach any documents as new facts. He stated that he had been disabled as of 1999, when he had suffered a “near fatal accident.” He also stated that information to the effect that he had “never earned more than the allowable amount if I were disabled, since 1999” had been before the Tribunal Member at the hearing on December 18, 2018.

[12] The Claimant did not submit any documents or new evidence in support of his application. He did not provide reasons as to why he felt his letter contained information that was

² Section 66(1)(b) of the Department of Employment and Social Development Act

³ *RB v Minister of Employment and Social Development and VH*, 2019 SST 29

new facts. By his own account, his new facts application of March 11, 2020 contained no new information that was not previously known to himself and the Tribunal.

[13] In May 2020, in response to my request for submissions on the new facts application, the Minister submitted that the maximum amount the Claimant could collect under the CPP was based on the date of his application, which was June 2016. He had received the maximum amount of back payment. Whatever the date of onset of the Claimant's disability, under the law he was not entitled to any further retroactive payment.

[14] In May 2020, in response to my request for submissions on the new facts application, the Claimant asked that his MQP of December 31, 2003, be considered the date of onset of his disability. He presented no new facts in support of his request.

[15] The Claimant is attempting to alter the result of the initial decision because he feels the decision was erroneous. If he feels the decision was wrong, he is entitled to bring an application for leave to appeal before the Appeal Division. However, rearguing the merits of a decision is not the proper basis for a new facts application.

CONCLUSION

[16] The application is dismissed.

Carol Wilton
Member, General Division - Income Security