



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *DM v Minister of Employment and Social Development*, 2020 SST 998

Tribunal File Number: GP-19-644

BETWEEN:

**D. M.**

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: Anne S. Clark

Teleconference hearing on: June 9, 2020

Date of decision: June 23, 2020

## **DECISION**

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

## **OVERVIEW**

[2] The Claimant has a significant personality disorder and is unable to work or function in work or social settings. He described his education and work history during the hearing. He graduated from high school in 1986 having never had a summer or part time job. He applied to join the military. He excelled in some of the admission tests making him a good candidate for the marine Engineering Technician Training Program. He attended boot camp for the summer and began university in the fall of 1986. He passed the first semester of courses and his grades went down in the second. He was removed from the training program because he was not able to maintain his grades. He was posted to a vessel and his training continued “on the job”. He felt unable to learn in that environment. He experienced panic attacks and isolated himself to avoid interacting with others.

[3] In 1990, the Claimant’s military contract expired and he did not apply for another contract of service. He returned home to live with his parents. He lived on his savings and resumed college classes in 1990. He signed up for a very light course load and passed his first semester. He said he started drinking to cope with his anxiety and quit school in 1991. He went back to live with his parents and said he became a “shut in” in 1991 when he was 23 years old. He described himself as always being a recluse even when he worked or attended school.

[4] Around 1998 or 2000, the Claimant was diagnosed with Schizoid Personality Disorder and received financial support. He said he has not worked since 1990 and has not attended school since 1991. He feels he can only cope when he is alone in his apartment. His isolation is not by choice but because he has a condition that makes him unable to interact with others.

[5] Around 2016 and later, the Claimant was involved in the criminal justice system and was required to have psychiatric assessments and counselling. In 2017, he felt it would be in his best interests to apply for a CPP disability pension instead of social assistance.

[6] The Minister received the Claimant's application for a disability pension on November 29, 2017. The Minister denied the application initially and on reconsideration. The Claimant appealed the reconsideration decision to the Social Security Tribunal.

[7] The Claimant would be entitled to a CPP disability pension if he contributed to the CPP within a period called the minimum qualifying period (MQP); has a disability that is severe and prolonged; and became disabled by the end of the MQP<sup>1</sup>. It is the Claimant's responsibility to prove it is more likely than not that he meets the conditions.

[8] The end of the Claimant's MQP was December 31, 1990. I have to decide if he has a severe and prolonged disability and was disabled by December 31, 1990.

### **PRELIMINARY MATTERS**

[9] The Claimant questioned the Minister's statement that his MQP would be calculated using four of the last six years. Unfortunately, the Minister stated the test incorrectly in the reconsideration decision. The Minister correctly stated the MQP ended on December 31, 1990. Unfortunately, the Minister quoted the wrong section to use to calculate the MQP. This caused confusion and concern for the Claimant.

[10] During the hearing I explained that the MQP is calculated using the law that was in effect when the Claimant last contributed to the CPP. In his case, he made valid contributions in 1986, 1987, 1988 and 1989.<sup>2</sup> This means his MQP is calculated using two of the last three years, making his MQP end on December 31, 1990.<sup>3</sup>

[11] I allowed the Claimant to file information after the hearing concluded. Specifically I allowed him to file a request about the calculation of his MQP and his reply to the Minister's written submissions. I did not allow him to file additional argument about his health in the recent past and why that evidence should satisfy the test for disability. The Claimant had opportunity to make submissions on that evidence before and during the hearing.

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<sup>1</sup> Paragraph 44(1)(b), and subsections 44(2), and 52(3) of the *Canada Pension Plan*

<sup>2</sup> See the Claimant's Statement of Contributions at GD2-37

<sup>3</sup> Subsection 13(1) *An Act to Amend the Canada Pension Plan and Federal Court Act*, S.C. 1986, c. 38

## ISSUE

[12] Does the evidence show the Claimant's conditions including the personality disorders caused him to have a severe disability, meaning incapable regularly of pursuing any substantially gainful occupation by December 31, 1990?

## ANALYSIS

### **The legal test for disability**

[13] The Claimant's disability is severe if he is incapable regularly of pursuing any substantially gainful occupation. His disability is prolonged if it is likely to be long continued and of indefinite duration<sup>4</sup>. He must prove on a balance of probabilities the disability meets both parts of the test, which means if the Claimant meets only one part, he does not qualify for disability benefits. The evidence the Claimant submitted does not show that his health conditions met the test for disability on or before December 31, 1990.

### **Lack of evidence from 1990 and before.**

[14] The CPP clearly requires medical evidence to show a disabling condition on or before the end of the MQP.<sup>5</sup> In this appeal, the relevant time is on or before December 31, 1990. The Claimant did not submit medical evidence from the relevant time. He said no such evidence exists. His brother wrote to say he remembered his parents supporting the Claimant after he left the military. His letter describes the difficult times the Claimant and his family experienced. The Claimant's brother believes the Claimant could not work after he left the military.<sup>6</sup>

[15] The Claimant has a significant personality disorder. It is clear that he is greatly affected by his condition and not able to work. The critical question is when did he become incapable of working.

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<sup>4</sup> Paragraph 42(2)(a) *Canada Pension Plan*

<sup>5</sup> *Canada (Attorney General) v Dean*, 2020 FC 206

<sup>6</sup> See GD 1-71

[16] In his questionnaire, the Claimant said he was unable to work beginning in 1991.<sup>7</sup> In May 2010 his counsellor wrote that, based on her understanding of conditions like the Claimant's and based on his reported history, it is likely his symptoms were present when he was an adolescent.<sup>8</sup> In 2019, his treating psychologist reported the Claimant was diagnosed with Schizoid Personality Disorder in 2000. From the Claimant's description the psychologist learned the Claimant "cut himself off" during the time around 1990. The psychologist also reported that it is not unusual for someone with the Claimant's condition to avoid treatment even though he needs help.<sup>9</sup> The Claimant submitted research and said he believes it explains that his condition would have started in his childhood or teen years and he may not have realized he had a problem at the time.<sup>10</sup> The rest of the information relates to events and assessments long after the end of the MQP. It does not relate to the Claimant's health on or before December 31, 1990.

### **Severe disability**

[17] I must assess the severe part of the test in a real world context<sup>11</sup>. This means that when deciding whether the Claimant has a severe disability, I must keep in mind factors such as age, level of education, language proficiency, and past work and life experience. The Claimant was 22 years old at the end of his MQP. He completed high school and some college courses. The evidence does not disclose any personal circumstances that would impact his ability to pursue employment.

[18] The measure of whether a disability is "severe" is not whether the person suffers from severe impairments, but whether the disability prevents the person from earning a living. It not a question of whether a person is unable to perform their regular job, but rather the person's inability to perform any substantially gainful work<sup>12</sup>.

[19] Recent medical reports surmise that the Claimant's condition could have existed when he was an adolescent. That would have likely been before he completed high school and joined the

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<sup>7</sup> GD2-59.

<sup>8</sup> GD6

<sup>9</sup> GD1-22

<sup>10</sup> See the Claimant's letter at GD1-8

<sup>11</sup> *Villani v. Canada (A.G.)*, 2001 FCA 248

<sup>12</sup> *Klabouch v. Canada (A.G.)*, 2008 FCA 33

military. There is no evidence to show when his health conditions likely made him unable to work. The lack of information means I cannot conclude that one date or period of time is more likely than another. Even if his condition began in his adolescence, the question is not when he developed a condition. The question is when his health condition likely made him incapable regularly of pursuing any substantially gainful employment. Medical evidence is necessary to answer that question.

[20] The Claimant gave frank and detailed testimony and submitted letters about his childhood and mental health but even his recollection is not completely clear. He said he became a “shut in” around 1991 when he was 23 years old. He described himself as being unable to interact with others in 1991. His brother remembered him isolating himself after 1990 when he lived with their parents.

[21] It is not enough for the Claimant to say he remembers being unable to work during a particular period. The law requires the Claimant to provide a report of his physical and mental disability. The report must include the nature, extent and prognosis of the disability; the findings upon which the diagnosis and prognosis were made; any likely limitations; and further information such as required treatment that may be relevant.<sup>13</sup> There are very clear requirements for medical information to support a claimant’s application. I understand from the reports on file that it is possible the Claimant may have avoided health professionals meaning there would be no medical evidence from that period of time. That statement is speculation on the part of his health providers and is not evidence that is what likely happened to him and when.

## **CONCLUSION**

[22] The Claimant was required to submit evidence to support his claim that he had a severe disability on or before December 31, 1990. There is no evidence from the relevant time and the recent information does not prove on a balance of probabilities the Claimant has a severe disability that began on or before December 31, 1990.

[23] The appeal is dismissed.

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<sup>13</sup> Subsection 68(1) *Canada Pension Plan Regulations*

Anne S. Clark  
Member, General Division - Income Security