



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *EC v Minister of Employment and Social Development*, 2020 SST 938

Tribunal File Number: GP-19-1354

BETWEEN:

E. C.

Appellant

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Patrick O'Neil

DATE OF DECISION: September 3, 2020

DECISION

[1] The Appellant's appeal is summarily dismissed as it has no reasonable chance of success. He has received the maximum retroactivity of *Canada Pension Plan* (CPP) survivor's pension payments permitted by the CPP.

OVERVIEW

[2] The Minister received the Appellant's application for a CPP survivor's pension in relation to the deceased contributor D. C. on February 5, 2019¹. The Minister approved the application initially and on reconsideration with payments starting January 2019. The Appellant appealed the reconsideration decision to the Social Security Tribunal seeking additional retroactivity of the survivor's pension.

[3] I must summarily dismiss an appeal if satisfied that it has no reasonable chance of success². I have decided this appeal has no reasonable chance of success for the reasons set out below.

ISSUE

[4] Does the Appellant's appeal have any reasonable chance of success?

ANALYSIS

The Appellant is not entitled to CPP survivor's pension payments before January 2019.

[5] I gave the Appellant the requisite notice in writing of the Tribunal's Intention to Summarily Dismiss his appeal³. I allowed him a reasonable time to make submissions. He made no submissions after receipt of the notice.

[6] To qualify for a CPP survivor's pension, the Appellant must meet the requirements set out in the CPP. More specifically, he must be the "survivor", of the deceased contributor D. C. as that term is defined in the CPP, at the time of her death. "Survivor", in relation to a deceased

¹ GD2 pages8-14

² Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act)

³ Section 22 of the *Social Security Tribunal Regulations* (Regulations)

contributor, is defined as a person who was married to the contributor at the time of the contributor's death.

[7] The CPP sets out the eligibility requirements for a CPP survivor's pension⁴. A CPP survivor's pension shall be paid

(i) before 2019, to the survivor of a deceased contributor who has made base contributions for not less than the minimum qualifying period, if the survivor

(A) has reached 65 years of age, or

(B) in the case of a survivor who has not reached 65 years of age,

(I) had at the time of the death of the contributor reached 35 years of age,

(II) was at the time of the death of the contributor a survivor with dependent children, or

(III) is disabled, and

(ii) after 2018, to the survivor of a deceased contributor who has made base contributions for not less than the minimum qualifying period.

[8] The Appellant and D. C. were married December 1, 1984. D. C. died March 15, 1990. They were still married at the time of her death. He was born February 28, 1961. He was 29 years old at the time of her death. He declared he was not a survivor with dependent children at D. C.'s death, and was not disabled.

[9] The Appellant is the "survivor" of D. C. as that term is defined in the CPP. However, at the time of D. C.'s death he had not reached 35 years of age, he was not a survivor with dependant children, and he was not disabled. He did not meet the CPP eligibility requirements to qualify for a survivor's pension before 2019⁵. Accordingly, he is not entitled to survivor's pension payments prior to January 2019.

⁴ Paragraph 44(1)(d) CPP

⁵ Paragraph 44(1)(d)(i) CPP

[10] The Appellant did meet the CPP eligibility requirements for a survivor's pension in January 2019⁶, as D. C. had made base contributions for not less than the minimum qualifying period. He is entitled to a CPP survivor's pension beginning January 2019.

[11] The Minister approved the Appellant's application for the survivor's pension with payments beginning January 2019, the month he became entitled to the survivor's pension. The Minister has allowed him the maximum retroactivity of survivor's pension permitted by the CPP.

[12] The Tribunal was created by legislation and, as such, I only have the powers granted to it by its governing statute. I am required to interpret and apply the provisions set out in the CPP. I cannot use the principles of fairness or equity or consider extenuating circumstances to grant retroactivity of survivor's pension payments other than as prescribed by the CPP.

[13] As I have found the Minister has allowed the Appellant the maximum retroactivity of survivor's pension payments permitted by the CPP, I find the appeal has no reasonable chance of success.

CONCLUSION

[14] The appeal is summarily dismissed.

Patrick O'Neil
Member, General Division - Income Security

⁶ Paragraph 44(1)(d)(ii) CPP