



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *L. S. v Minister of Employment and Social Development*, 2020 SST 806

Tribunal File Number: AD-20-624

BETWEEN:

**L. S.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Valerie Hazlett Parker

DATE OF DECISION: September 24, 2020

## **DECISION AND REASONS**

### **DECISION**

[1] The appeal is dismissed.

### **OVERVIEW**

[2] L. S. (Claimant) applied for a Canada Pension Plan disability pension in June 2018. The Minister of Employment and Social Development approved the application and decided that she was disabled fifteen months before the date of the application. The Claimant appealed the Minister's decision regarding when she became disabled to the Tribunal. The Tribunal's General Division summarily dismissed the appeal because the Minister had granted the Claimant the maximum retroactivity of the disability pension available under the legislation.

[3] The Claimant's appeal from the General Division decision is dismissed. The General Division made no error upon which the Appeal Division can intervene.

### **PRELIMINARY MATTER**

[4] This appeal was decided on the basis of the documents filed with the Tribunal for the following reasons

[5] The legal issue to be decided is straightforward;

[6] The parties had the opportunity to file written submissions on the legal issue;

[7] There are no gaps in the information filed with the Tribunal;

[8] The Tribunal has legal authority to decide issues of law and fact necessary to decide an appeal;<sup>1</sup>

[9] Appeals must be concluded as quickly as the circumstances and considerations of fairness and natural justice permit.<sup>2</sup>

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<sup>1</sup> Department of Employment and Social Development Act s. 64(1)

<sup>2</sup> Social Security Tribunal Regulations s. 3(1)

[10] Appeals may be decided on the basis of documents filed with the Tribunal.<sup>3</sup>

## ISSUE

[11] Did the General Division make an error upon which the Appeal Division can intervene?

## ANALYSIS

An appeal to the Tribunal's Appeal Division is not a re-hearing of the original claim. Instead, the Appeal Division can only 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.<sup>4</sup>

If the General Division has not made at least one of these errors, the Appeal Division can not intervene, and the appeal must be dismissed.

[12] The Claimant applied for the disability pension three times before 2018. Each of these applications was refused by the Minister. The Claimant did not appeal these decisions to the Tribunal. They were therefore concluded.

[13] The Claimant applied again for the disability pension in 2018, and the Minister approved the application on reconsideration. This is the decision that was appealed to the Tribunal. The Tribunal's General Division decision correctly states that it had no jurisdiction to consider the prior applications because they were not appealed.<sup>5</sup> That the Claimant did not know that she could have appealed makes no difference.

[14] In the documents she filed with the Appeal Division, the Claimant again wrote that she did not know that she should have appealed from the Minister's decisions in her earlier

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<sup>3</sup> Social Security Tribunal Regulations s. 43

<sup>4</sup> a) This paraphrases the grounds of appeal set out in s. 58(1) of the Department of Employment and Social Development Act

<sup>5</sup> General Division decision

applications. This may be so. However, it does not point to the General Division having made any error. The General Division decision sets out the law regarding retroactive payment of a disability pension and applied it to the facts before it. It made no error in law.

[15] The Claimant does not suggest that the General Division made any factual errors. I have reviewed the written record. The General Division did not overlook or misconstrue any important information.

[16] The General Division must provide parties with a fair process. This means that all parties must be given the opportunity to present their case to the Tribunal, to know and answer the other party's legal case, and to have a decision made by an impartial decision maker based on the law and the facts. There is no indication that this was not done.

[17] Therefore, the General Division has not made any error upon which the Appeal Division can intervene.

## **CONCLUSION**

[18] The appeal is dismissed for these reasons.

Valerie Hazlett Parker  
Member, Appeal Division

METHOD OF PROCEEDING:	On the Record
APPEARANCES:	L. S., Appellant