



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *AP v Minister of Employment and Social Development*, 2020 SST 825

Tribunal File Number: AD-20-113

BETWEEN:

A. P.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Decision on Request for Extension of Time by: Kate Sellar

Date of Decision: September 24, 2020

DECISION AND REASONS

DECISION

[1] I refuse to grant an extension of time to apply for leave to appeal, so the appeal will not go forward. These reasons explain why.

OVERVIEW

[2] A. P. (Claimant) applied for a disability pension under the *Canada Pension Plan (CPP)* in July 2008. The Minister denied her application. She asked for reconsideration and the Minister did not change the decision. The Claimant appealed that decision to what was then called the Review Tribunal.¹ The Review Tribunal dismissed her appeal.²

[3] The Claimant made a new application for a disability pension on November 12, 2019.³ The Minister denied the application, explaining that because the Claimant did not have new earnings, the Review Tribunal's decision is the final answer about whether the Claimant is entitled to a disability pension.⁴ The Minister does not have a request for reconsideration from the Claimant concerning that 2019 application.⁵

[4] In February 2020, the Claimant asked this Tribunal to accept an appeal of the Minister's decision to deny her disability benefits. She filed a notice of appeal to the General Division.⁶ The Tribunal processed the application as an appeal of the old Review Tribunal decision to the Appeal Division.

[5] The Tribunal helped the Claimant to request a copy of the old Review Tribunal decision from 2011. The Tribunal directed the appeal to the Appeal Division based on the transitional rule that allows people to appeal Review Tribunal decisions to the Appeal Division.⁷

¹ The Review Tribunal heard appeals before the creation of the Social Security Tribunal.

² The Review Tribunal decision is at AD1E-7 to 21.

³ There is a completed application form for a disability pension at AD1-8 to 26.

⁴ AD1-28 to 29. The letter decision letter is dated January 20, 2020.

⁵ The Tribunal asked the Minister to confirm whether there was a reconsideration request for the 2019 application and the Minister responded that there was not.

⁶ AD1-3 to 4 contains a completed appeal to the General Division.

⁷ *Jobs, Growth and Long-term Prosperity Act*, SC 2012, c 19, s 256.

[6] The Claimant received her decision from the Review Tribunal many years ago. I do not have the power to grant her an extension of time in order to consider her appeal of the Review Tribunal decision. I refuse to grant the extension of time. The appeal will not go ahead.

ISSUE

[7] Do I have the power to consider the Claimant's appeal?

ANALYSIS

Late Appeals to the Appeal Division

[8] The law requires claimants to make an application to the Appeal Division 90 days after the day the decision under appeal is communicated to the claimant.⁸ The Appeal Division can give claimants extensions of time, but in **no case** can claimants make applications more than one year after the day the decision was communicated to them.⁹

Do I have the power to consider the Claimant's appeal?

[9] I do not have the power to consider the Claimant's appeal because the appeal is more than one year late.

[10] The Claimant has not argued that she was unaware of or did not receive the Review Tribunal decision when it was issued back in 2011. The Claimant made this application to the Appeal Division more than one year after the Review Tribunal's decision was communicated to her. In fact, the Claimant filed the application with the Appeal Division almost a decade after the Review Tribunal communicated its decision to the Claimant.

[11] I have no power to grant an extension of time to appeal a Review Tribunal decision from 2011. The Claimant is more than one year late.

[12] Since I cannot extend the time for the appeal, I will not consider whether the appeal might have had a reasonable chance of success. The Claimant seems to be making efforts to

⁸ DESDA, s 57(1)(b).

⁹ DESDA, 57(2).

gather more medical information in support of her appeal. However, the appeal is out of time and I cannot grant an extension of time in order to consider the appeal any further.

[13] The decision the Minister provided in January 2020 explains that the Review Tribunal decision is final, and that the Claimant has not had any new earnings. Accordingly, the Minister's letter explains that the question of whether the Claimant is entitled to a disability pension has been answered fully and finally by the Review Tribunal. The Claimant did not request reconsideration of that decision.

CONCLUSION

[14] I refuse to grant an extension of time to apply for leave to appeal. The appeal will not go forward.

Kate Sellar
Member, Appeal Division

REPRESENTATIVE:	J. P., for the Applicant
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