



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *MP v Minister of Employment and Social Development*, 2020 SST 1023

Tribunal File Number: AD-20-834

BETWEEN:

M. P.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: December 7, 2020

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] M. P. is the Claimant in this case. He applied for a Canada Pension Plan disability pension in 2019 and said that he was disabled by schizophrenia. The Minister of Employment and Social Development granted the application and began to pay him the pension as of 11 months before he applied.¹

[3] The Claimant appealed the Minister's decision regarding when his pension should begin to be paid to the Tribunal. He argues that was incapable of forming or expressing an intention to apply for the pension from 2009 until he did so. The Tribunal's General Division dismissed the appeal. It decided that the Claimant was not continuously incapable of forming or expressing an intention to make an application during this time.

[4] Leave to appeal this decision to the Tribunal's Appeal Division is refused. The Claimant has not presented any grounds of appeal upon which the appeal has a reasonable chance of success.

PRELIMINARY MATTER

[5] The Claimant did not present any grounds of appeal that the Appeal Division can consider in his Application to the Appeal Division. The Tribunal wrote to the Claimant, explained what grounds of appeal can be considered, and asked the Claimant to provide this. The Claimant responded within the time permitted.

¹ A person cannot be deemed to be disabled more than 15 months before the Minister receives the disability pension application: *Canada Pension Plan* s. 42(2)(b). Payment of the pension begins four months after this: *Canada Pension Plan* s. 69

ISSUES

[6] Does the appeal have a reasonable chance of success because the Claimant did not know about the disability pension before he applied for it?

[7] Does the appeal have a reasonable chance of success because the Claimant is financially insecure?

ANALYSIS

[8] 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:²

- 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.

[9] However, a claimant must first obtain leave (permission) to appeal. Leave to appeal to the Appeal Division must be refused if the appeal does not have a reasonable chance of success.³ Therefore, to be granted leave to appeal the Claimant must present at least one ground of appeal (reason for appealing) that the Appeal Division can consider and on which the appeal has a reasonable chance of success.

Earlier Knowledge of the Pension

[10] The Claimant's first ground of appeal is that he did not apply sooner for the disability pension because he did not know about it. This is unfortunate. However, the Claimant's lack of knowledge of this pension is not a ground of appeal that the Appeal Division can consider. It

²This paraphrases the grounds of appeal set out in s. 58(1) of the *Department of Employment and Social Development Act*

³ *Department of Employment and Social Development Act* s. 58(2)

does not point to any error made by the General Division. Therefore, the appeal does not have a reasonable chance of success on this basis.

The Claimant's Financial Insecurity

[11] The Claimant also states that he needs money. While this may be so, this argument does not point to the General Division having made an error. Leave to appeal cannot be granted on this basis.

[12] I have read the General Division decision and the written record. There is no suggestion that the General Division failed to provide a fair process, acted outside its jurisdiction or made an error in law. There is also nothing that indicates that the General Division based its decision on any important factual errors.

CONCLUSION

[13] Leave to appeal is refused for these reasons.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	M. P., Self-represented