



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *KA v Minister of Employment and Social Development*, 2020 SST 1152

Tribunal File Number: GP-19-1386

BETWEEN:

K. A.

Appellant

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Antoinette Cardillo

Date of decision: December 22, 2020

DECISION

The Appellant is not entitled to a Canada Pension Plan (CPP) Post-retirement Disability Benefit (PRDB).

OVERVIEW

[1] On January 14, 2019¹, the Minister received the Appellant's Statement of Application for a Canada Pension Plan Post-retirement disability benefit. On April 23, 2019², she was advised that she did not qualify because she did not have sufficient earnings and contributions to meet the minimum qualifying period of January 2019 or later. The Appellant asked for a reconsideration. On June 14, 2019³, the Minister maintained its original decision and the Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal).

PRELIMINARY MATTERS

[2] A pre-hearing conference was held on September 10, 2020 to discuss the eligibility requirements to the PRDB and the Appellant's minimum qualifying period (MQP). The Minister was present at the pre-hearing conference. Unfortunately, the Appellant was very frustrated with the process and left the hearing before all the issues could be explained.

[3] On September 24, 2020, I asked both parties to make submissions on the Appeal Division's (AD) decision dated August 28, 2020⁴, which described how to calculate the MQP to determine a retired person's potential eligibility for PRDB. Neither the Appellant nor the Minister filed submissions.

ISSUE

[4] Is the Appellant entitled to the PRDB?

¹ GD2-19

² GD2-10

³ GD1-2

⁴ *N.L. v. Minister of Employment and Social Development*, 2020 SST 741

APPLICABLE LAW

[5] A post-retirement disability benefit⁵ is payable to a beneficiary of a retirement pension who has not reached 65 years of age, is disabled and who has made base contributions for not less than the minimum qualifying period.

[6] A contributor is deemed to have made base contributions⁶ for not less than the minimum qualifying period only if the contributor has made base contributions on earnings that are not less than the contributor's basic exemption,

- (a) for at least four of the last six years;
- (b) for at least 25 years of which at least three are in the last six years; or
- (c) for each year after the month of cessation of the contributor's previous disability pension or post-retirement disability benefit.

[7] As the PRDB did not come into effect until January 2019, an Appellant must have an MQP into January 2019 or later in order to be considered for PRDB. An MQP ending prior to January 2019 results in the Appellant failing to meet the contributory requirements for a PRDB.

ANALYSIS

[8] On January 14, 2019, the Minister received the Appellant's Statement of Application for a Canada Pension Plan Post-retirement disability benefit. She had previously submitted a CPP disability pension application on April 5, 2018⁷. Her application was denied because she made it more than 15 months after she began receiving a CPP retirement pension in September 2016. The Appellant appealed the Minister's decision to the Tribunal. Unfortunately, her appeal was dismissed because the CPP does not allow a retirement pension to be cancelled in favor of a disability pension if the disability application is made 15 months or more after the retirement pension started to be paid.

⁵ Paragraph 44(1)(h) of the CPP

⁶ Subsection 44(4) of the CPP

⁷ GD2-22

[9] As stated, to meet the eligibility criteria to receive a PRDB, an applicant must have an MQP in January 2019 or later. As defined in the CPP⁸ and as determined by the AD, the MQP for PRDB refers to four of the last six calendar years; or if the claimant has 25 calendar years of valid contributions, at least three in the last six calendar years.

[10] Based on the evidence⁹, the Appellant does not have 25 years of valid earnings and contributions in her contributory period. Considering earnings and contributions in four of the last six calendar years from the date the Minister received the Statement of Application for a Canada Pension Plan Post-retirement disability benefit (January 14, 2019), the Appellant does not meet the contributory requirement to qualify for PRDB. She has no earnings between 2013 and 2018.

[11] Even if I were to consider the four of the last six calendar years from the date of her disability pension application received in April 5, 2018, the Appellant still would not meet the contributory requirement to qualify for the PRDB. She had no earnings between 2012 and 2017.

[12] Therefore, the Appellant is not eligible to receive the PRDB.

CONCLUSION

[13] The appeal is dismissed.

Antoinette Cardillo
Member, General Division - Income Security

⁸ Subsection 44(4) of the CPP

⁹ *N.L. v. Minister of Employment and Social Development*), 2020 SST 741