



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *SS v Minister of Employment and Social Development*, 2021 SST 74

Tribunal File Number: GP-20-775

BETWEEN:

S. S.

Claimant

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Patrick O'Neil

Teleconference hearing on: January 7, 2021

Date of decision: January 13, 2021

DECISION

[1] The Claimant is not entitled to a Canada Pension Plan (CPP) disability pension.

OVERVIEW

[2] The Minister received the Claimant's application for the disability pension on September 24, 2018¹. The Minister denied the application initially and on reconsideration. The Claimant appealed the reconsideration decision to the Social Security Tribunal.

[3] To qualify for a CPP disability pension, the Claimant must meet the requirements that are set out in the CPP. More specifically, she must be found disabled as defined in the CPP on or before the end of her minimum qualifying period (MQP). The calculation of the MQP is based on her contributions to the CPP. I find her MQP to be December 31, 1997.

ISSUE(S)

[4] Did the Claimant's mental condition result in her having a severe disability, meaning incapable regularly of pursuing any substantially gainful occupation by December 31, 1997?

[5] If so, was her disability also long continued and of indefinite duration by December 31, 1997?

ANALYSIS

[6] Disability is defined as a physical or mental disability that is severe and prolonged². The Claimant is considered to have a severe disability if incapable regularly of pursuing any substantially gainful occupation. A disability is prolonged if it is likely to be long continued and of indefinite duration or is likely to result in death. She must prove on a balance of probabilities her disability meets both parts of the test, which means if she meets only one part, she does not qualify for disability benefits.

¹ GD2 pages 22-26

² Paragraph 42(2)(a) *Canada Pension Plan*

Severe disability

The Claimant's disability was not severe by December 31, 1997.

[7] The Claimant, who is currently forty-eight years old, was twenty-five years old at her MQP. She has high school, business, and business application diplomas. She worked as a receptionist/secretary for a construction company while in school in 1990-91, and save working for about one month in a clothing store, and fish processing facility in 2013, has not worked since. She noted in the Questionnaire for Disability Benefits that accompanied her 2015 CPP disability application that she stopped working in the clothing store on April 30, 2013 because of mental illness, and could not work due to her medical condition as of January 7, 2014³.

[8] The Claimant noted in her reconsideration request dated April 24, 2019⁴ that she has been unable to work due to mental disability since 2011. She tried many times to get work, but no one will hire her due to her chronic illness. She was fired from each job she worked at since 2011 due to mental illness. She noted in her Notice of Appeal dated April 6, 2020⁵ that she has been disabled since 2010.

[9] The Claimant testified the sole reason she is unable to work is mental illness, which began in December 2010. She was not treated, or diagnosed with mental illness prior to admission to hospital in December 2010 due to mental breakdown, and diagnosed with schizophrenia when again hospitalized in 2012. She has been treated for schizophrenia since. Her psychiatrists have told her that she is unable to work due to the severity of her condition.

[10] No health condition precluded her working prior to December 31, 1997, or December 2010. She did not work from 1992 to December 2010, because she stayed home to care for her sons born in 1992 and 1998.

[11] There are no medical reports dated prior to June 2015. The Claimant did not see doctors for any mental condition prior to her admission to hospital following mental breakdown in

³ GD2 pages 100-106

⁴ GD2 page 11

⁵ GD1 page 1

December 2010. The medical reports corroborate her evidence that onset of mental illness, the sole condition she submits has rendered her unable to work, was in December 2010.

[12] Dr. Maynes, psychiatrist, reported July 21, 2015⁶ he has been treating the Claimant for psychosis since June 16, 2011. She had an admission to hospital on December 6, 2010. She required re-admission in October 2012. Her discharge diagnosis was schizophrenia. She has a chronic psychotic disorder that will require medication indefinitely on a long-term basis. She is not able to work due to mental illness.

[13] Dr. Bilski-Piotrowski, the Claimant's psychiatrist since May 2017, completed the initial medical report dated September 18, 2018⁷. She was diagnosed with schizophrenia eight years ago. She had admissions to hospital in December 2010 and October 2012. It is unlikely she will be able to have gainful employment in the future. Her condition is of indefinite duration and clinically severe.

[14] Dr. Natarajan, psychiatrist, reported March 30, 2020⁸ the Claimant first became unwell and hospitalized because of schizophrenia in 2010. Her illness is severe and prolonged. Her prognosis is guarded. She is likely to have periods of remission and relapse. She is not fit for work. Her illness is likely to be indefinite.

[15] I must assess the severe part of the test in a real world context⁹. This means that when deciding whether a person's disability is severe, I must keep in mind factors such as age, level of education, language proficiency, and past work and life experience. The Claimant was just twenty-five years old at her MQP. She has a high school education and business diplomas. She is proficient in English, and has transferable skills acquired through education, employment, and life experiences. I find her personal factors did not affect her capacity to pursue work by December 31, 1997.

⁶ GD2 pages 80-81

⁷ GD2 pages 12-15

⁸ GD1 page 2

⁹ *Villani v. Canada (A.G.)*, 2001 FCA 248

[16] The issue I must determine is whether the Claimant had a severe and prolonged disability by December 31, 1997. The issue is not did she became disabled after December 31, 1997, or is currently disabled.

[17] There is no evidence the Claimant suffered from a severe disability that rendered her incapable regularly of pursuing any substantially gainful occupation by December 31, 1997. There are no medical reports dated prior to June 2015. The absence of medical reports dated contemporaneous to her December 31, 1997 MQP is consistent with her evidence that she did not suffer from any condition that precluded her working prior to December 31, 2010. She does not claim to have been unable to work prior to December 31, 1997. She claims she has been unable to work since December 2010, due to mental breakdown and diagnosis of schizophrenia. She has suffered from schizophrenia since onset in December 2010.

[18] I must assess the Claimant's condition in its totality, which means I must consider all of the possible impairments, not just the biggest impairments or the main impairment¹⁰. The impairments that must be considered are those that existed by her December 31, 1997 MQP. The evidence of the Claimant and her treatment providers is that she had no impairment that precluded her from working by December 31, 1997. The onset of the condition she submits has precluded her working, namely mental illness, occurred in December 2010.

[19] Federal Court decisions have held that Claimants must provide objective medical evidence that they suffer from a serious and prolonged disability¹¹. The objective medical evidence must relate to the date of the Claimant's MQP¹². The onus is on the Claimant to establish on the balance of probabilities her entitlement to CPP disability benefits. There is no objective or subjective medical evidence, the Claimant suffered from any severe physical or mental condition by December 31, 1997. Accordingly, I find she failed to establish she was incapable regularly of pursuing any substantially gainful occupation by December 31, 1997. I find she did not have a severe disability by December 31, 1997.

¹⁰ *Bungay v. Canada (A.G.)*, 2011 FCA 47

¹¹ *Warren v. Canada (A.G.)*, 2008 FCA 377

¹² *Canada (A.G.) v. Dean* 2020 FC 206, and *Canada (A.G.) v. Angell* 2020 FC 1093

Prolonged disability

[20] As I found that the Claimant's disability was not severe by December 31, 1997, it is not necessary to make a finding on the prolonged criterion.

CONCLUSION

[21] The appeal is dismissed.

Patrick O'Neil
Member, General Division - Income Security