



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *AH v Minister of Employment and Social Development*, 2021 SST 306

Tribunal File Number: GP-21-208

BETWEEN:

A. H.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Jean Lazure

Teleconference hearing on: May 6, 2021

Date of decision: May 30, 2021

Decision

[1] The Claimant, A. H., is not eligible for a Canada Pension Plan (CPP) disability pension. This decision explains why I am dismissing his appeal.

Overview

[2] The Claimant was 45 years old as of the hearing. In terms of education, I note that he completed grade 13. The Claimant indicated he has no other degrees.

[3] Since joining the workforce, the Claimant has done two types of work: work as a personal trainer and administrative work. The Claimant worked as a personal trainer “off and on” between 2008 and 2020. In addition, the Claimant has done administrative work, mostly in government jobs. Asked to ballpark the duration of his employment in administrative jobs, the Claimant said, “I can ballpark it as not a lot” and said he “usually does six month contracts once in a while”.

[4] The Claimant was injured when he was shot in July 2007. The Claimant said the bullet is permanently lodged in his leg and doctors have indicated it is too risky to attempt to remove it. The Claimant indicated that the bullet is hitting his sciatic nerve and causing significant pain.

[5] The Claimant’s last job in administrative work was in 2017 at the Department of National Defence, full-time work for 4-5 months. He also worked full-time as a personal trainer, six days a week and nine hours per day, until March 2020¹.

[6] The Claimant applied for a CPP disability pension on July 31, 2020². The Minister refused his application because the Claimant worked as a personal trainer until March 14, 2020, and that his record of employment indicates that he stopped work due to a “shortage of work/end of contract or season”³. The Minister also cited a lack of medical evidence and evidence of

¹ The Claimant declared this in his online application for CPP disability benefits, found in the file on page GD2-22.

² This is the application was received by the Minister, per page GD7-3 in the file. I could not find the actual date of the application on the application itself, though the latest date declared by the Claimant is the date he saw his family doctor, on July 29, 2020.

³ This is found in the file on page GD3-25.

treatment. The Claimant appealed that decision to the Social Security Tribunal's General Division.

What the Claimant must prove

[7] For the Claimant to succeed, he must prove he has a disability that was severe and prolonged by the date of the hearing.⁴

[8] The CPP defines "severe" and "prolonged". A disability is severe if it makes a person incapable regularly of pursuing any substantially gainful occupation.⁵ It is prolonged if it is likely to be long continued and of indefinite duration, or is likely to result in death.⁶

[9] The Claimant has to prove it is more likely than not he is disabled.

Reasons for my decision

[10] I find the Claimant has not proven he has a disability that was severe and prolonged by the date of the hearing on this matter. I reached this decision by considering the following issues.

The Claimant's disability is not severe

- I do not find the Claimant believable

[11] The Claimant was shot in July 2007. However, in his application for CPP disability benefits, the Claimant indicated that he worked as a personal trainer until March 2020 full-time, six days per week, nine hours per day.

[12] When asked why he was able to work for so long following being shot in 2007 and why he is unable to work now, the Claimant testified that he has lost 30 pounds and that the bullet has moved. He said this has happened over the last two or three years and that his injury has gotten

⁴ Service Canada uses a person's years of CPP contributions to calculate their coverage period, or "minimum qualifying period" (MQP). The end of the coverage period is called the MQP date. See subsection 44(2) of the *Canada Pension Plan*. The Claimant's CPP contributions are on GD2-5. In this case, the Claimant's coverage period ends December 31, 2021.

⁵ Paragraph 42(2)(a) of the *Canada Pension Plan* gives this definition of severe disability.

⁶ Paragraph 42(2)(a) of the *Canada Pension Plan* gives this definition of prolonged disability.

progressively worse in the last three or four months. The Claimant indicated that his muscle is denser now and the bullet is closer to the nerve.

[13] It would be important to the Claimant's case that I find these statements believable, especially considering the scarcity of the medical evidence. It would also be important in light of the Claimant's record of employment related to his last job, which ended on March 14, 2020. This ROE indicates the reason his employment ended as "shortage of work "end of contract or season"⁷.

[14] I do not find the Claimant believable and cannot accept his statements in paragraph 12 as the truth, for the following reasons.

[15] The Claimant referred numerous times in his testimony to his belief that his social insurance number is fraudulent and that this is at the root of his case. A few times I indicated to the Claimant that I had no evidence of this in the file and that even if I did, I failed to see how this had anything to do with him being disabled or not. The Claimant indicated that this "stems from a CRA fraud, started through garnishment of wages, SIN number no good and fraudulent".

[16] Moreover, the Claimant testified that his last five employers conspired in a plot to kill him in 2007 because his social insurance number is fake. He indicated that there has been employment fraud from these last five employers, most notably that Goodlife stole his severance pay to make it look like he was crazy, to make it look like his story wasn't believable.

[17] The Claimant said this also tied into him reporting the death of K. M. in 2006. Because he did so, the Claimant said "C. Q., Ministry of the Attorney General, who are under investigation for genocide because their offices" decided to "shoot and tag" him for reporting her death.

[18] The Claimant submitted numerous documents about ongoing litigation throughout the years against many parties, including employers. I found the filing of these puzzling as the only true take-away from these documents is that the Claimant furthered Ontario case law about

⁷ Page GD3-25 of the file.

vexatious litigants. Justice Corthorn of the Ontario Superior Court of Justice declared the Claimant just that in 2019⁸.

[19] The Claimant further indicated, “any government document is fraudulent”. Specifically, his record of employment dated March 24, 2020, of some importance in this case as a third party statement as to why the Claimant’s employment ended, is a “very fraudulent document, it’s under investigation”. When asked why it is fraudulent, the Claimant testified “it’s no good bro” and spoke of his wages being garnished, and that they stole his severance pay.

[20] The Claimant said he is being denied CPP disability benefits because they cannot process his SIN number because it is fraudulent. I can assure the Claimant that this is not why I am denying his appeal. However, I find that the wild theories put forth by the Claimant significantly hinder his credibility.

[21] The Claimant said in his application that he was to attend photography courses in the fall of 2020. The Claimant testified that he applied because he could not do personal training anymore and that photography is something that he wanted to do and could do from various positions if he wanted to. The Claimant said he did not follow through with this photography course because he could not do it. He decided not to do it because it did not suit him physically and mentally after looking into it further.

[22] However, the Claimant further testified that he was going to attend university in the fall of this year. The Claimant said this and then would say nothing further when he seemed to realize that this might hurt his case. The Claimant flatly refused to answer any questions about this, saying he did not think it was relevant, what he was doing in the future. I find it reasonable to infer that the Claimant is able to attend university. This, indeed, does not help his case.

[23] This brings me to the general demeanour of the Claimant in his testimony, which, in addition to the actual substance of a witness’ testimony, is used to assess credibility. The Claimant generally testified in a defensive, standoffish manner. Many times the Claimant seemed to want an end to the hearing, saying at one point that he was “insulted [he] even had to do this

⁸ This is found in the file on page GD3-58.

hearing”. There is simply no air of truth to the Claimant’s testimony. The Claimant seems self-serving and points to his disability as if it should be obvious. I cannot agree.

- **The medical evidence is weak**

[24] The Claimant must provide objective medical evidence to support his claim.⁹

[25] The medical evidence in this case is weak. There is a single medical report, by Dr. Pravin J. Shukle, the Claimant’s family doctor, dated August 4, 2020¹⁰. There is little doubt that Dr. Shukle repeated in his report what the Claimant said about his injuries as Dr. Shukle indicates he first started treating the Claimant’s primary medical condition on July 28, 2020, or one week before his report.

[26] This report is not supported by any testing or reports by specialists. For example, it is stated that the Claimant “has seen several surgical specialists who have indicated that there is a very high risk of permanent paralysis if surgery attempted”. No reports by specialists were filed.

[27] In addition, though there are scans that show the bullet lodged in the Claimant’s leg¹¹, there is no medical evidence that weight loss caused any increase in pain from the bullet lodged in the Claimant’s leg.

[28] I believe it is likely that Dr. Shukle’s report is based on what the Claimant told him in the week prior to his report and little else. I have explained above why I find the Claimant not to be believable.

[29] Furthermore, I am puzzled by the lack of pain management by medication in the Claimant’s case. The Claimant testified he is not “taking anything for pain”. I do not believe there is any valid reason for this.

⁹ The Federal Court of Appeal said this in *Warren v. Canada (Attorney General)*, 2008 FCA 377; the Federal Court repeated this in *Canada (Attorney General) v. Dean*, 2020 FC 206.

¹⁰ It is found in the file on page GD1-19.

¹¹ Found in the file on pages GD5-16 and GD5-17.

[30] The Claimant testified he really has a hard time taking pills because of a situation he has had with medication. When I asked him to elaborate, the Claimant provided the following statements:

- “For the second time, “people are trying to kill me”;
- The Claimant was given bad pills, the girl at the pharmacy switched her pills, just doesn’t do pills because of that;
- “These people tried to kill my dog”;
- “Can’t take pills because these people are savages, people are savages and will tamper with anything you buy”;

[31] For these reasons, the Claimant said he does not trust medication. I cannot accept these as valid reasons for not pursuing treatment for the pain the Claimant says he is experiencing: “Pain is real, bro, pain is real”.

[32] I find that the medical evidence is too weak to support the Claimant’s case. It does not support a finding of severe disability.

[33] I find that the Claimant’s disability is not severe.

Conclusion

[34] I find the Claimant is not eligible for a CPP disability pension because his disability is not severe. Because I found the disability is not severe, I did not have to consider if it is prolonged.

[35] This means the appeal is dismissed.

Jean Lazure
Member, General Division - Income Security