



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *BA v Minister of Employment and Social Development*, 2021 SST 616

Tribunal File Number: GP-21-1287

BETWEEN:

**B. A.**

Claimant (Appellant)

and

**Minister of Employment and Social Development**

Minister (Respondent)

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**SOCIAL SECURITY TRIBUNAL DECISION**

**General Division – Income Security**

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DECISION BY: Kelley Sherwood

DATE OF DECISION: September 20, 2021

## **DECISION**

[1] The Claimant's request for an extension of time is denied. This means his appeal won't proceed at the Social Security Tribunal (the Tribunal).

## **OVERVIEW**

[2] B. A. is the Claimant. He applied for a Canada Pension Plan (CPP) disability pension. The Minister of Employment and Social Development (the Minister) considered his application twice. It issued its final denial on March 3, 2020<sup>1</sup>. The Claimant appealed the Minister's decision to Tribunal.

[3] The Tribunal received the Claimant's notice of appeal on June 7, 2021 more than a year after the Minister had issued its decision. This date is important because the Tribunal isn't allowed to accept appeals filed more than a year after the Minister communicated its decision.<sup>2</sup>

## **ISSUE**

[4] I must decide whether the Claimant's appeal can proceed.

## **ANALYSIS**

### **The Claimant filed his appeal more than one year late**

[5] I must apply the rule that doesn't allow me to accept an appeal filed more than a year late.

[6] I wrote to the Claimant to ask him to provide an explanation for the delay in filing his appeal. He responded that his health condition continues to decline. He has some memory loss and disorientation. His condition is considered palliative. He also lost his brother this year.

[7] Without a doubt, the Claimant, along with his family, are going through a difficult time. But there is nothing in his explanation that allows me to bypass the rule.

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<sup>1</sup> This is called "the reconsideration decision".

<sup>2</sup> Section 52(2) of the *Department of Employment and Social Development Act*

[8] The Claimant didn't say when the Minister's second denial decision was communicated to him. I am making a finding that it was communicated by March 17, 2020. This is 10 business days after the Minister issued it. This timeline is well within the mail delivery standards at Canada Post.

[9] The Tribunal received the Claimant's application on June 7, 2021. This means the Claimant's appeal was filed more than a year after the Minister communicated its decision to him.

### **Should the Claimant decide to reapply for a disability pension**

[10] The Claimant can reapply for a disability pension. However, he should know that his "coverage" under the CPP expired in December 31, 1997. That was the last time he paid into the CPP and met the criteria to qualify for a disability pension<sup>3</sup>.

[11] This means that in order to be found disabled he would need to prove that his disability was severe and prolonged by December 31, 1997.

[12] His recent health decline won't be taken into consideration unless he can prove through medical evidence that he was already disabled by December 31, 1997.

### **CONCLUSION**

[13] The Claimant's appeal can't proceed with the Tribunal.

Kelley Sherwood  
Member, General Division – Income Security

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<sup>3</sup> This is known as "the minimum qualifying period" or MQP.