



Gouvernement du Canada Government of Canada

Tribunal de la sécurité sociale Social Security Tribunal

Citation: *SK v Minister of Human Resources and Skills Development*, 2015 SSTGDIS 1487

Tribunal Number: GT-120343

BETWEEN:

S. K.

Appellant

and

Minister of Human Resources and Skills Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section
Summary Dismissal

SOCIAL SECURITY TRIBUNAL MEMBER: Brian Rodenhurst

DATE OF DECISION: January 26, 2015

DECISION

[1] The Tribunal finds that the appeal has no reasonable chance of success; therefore, the appeal is summarily dismissed.

INTRODUCTION

[2] The Appellant applied for a Canada Pension Plan death benefit, survivor's pension, and survivor's child's pension. The Respondent denied the application at the initial level and on March 6, 2012 denied the application at the reconsideration level. The Appellant appealed that decision to the Office of the Commissioner of Review Tribunals (OCRT) on April 30, 2012.

ISSUE

[3] The Tribunal must decide whether the appeal should be summarily dismissed.

THE LAW

[4] Section 257 of the *Jobs, Growth and Long-term Prosperity Act* of 2012 states that appeals filed with the OCRT before April 1, 2013 and not heard by the OCRT are deemed to have been filed with the General Division of the Social Security Tribunal.

[5] Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act) states that the General Division must summarily dismiss an appeal if it is satisfied that it has no reasonable chance of success.

[6] Section 22 of the *Social Security Tribunal Regulations* states that before summarily dismissing an appeal, the General Division must give notice in writing to the Appellant and allow the Appellant a reasonable period of time to make submissions.

EVIDENCE

[7] The Appellant was given to January 23, 2015 to submit any further information including evidence of further contributions made by the deceased. No further information was submitted.

[8] The deceased contributed to the Canada Pension Plan for 9 years, specifically 1977, 1978, 1979, 1985, 1986, 1989, 1990, 1991, and 1992.

SUBMISSIONS

[9] The Appellant submitted that:

- a) The deceased's family is under financial strain.
- b) The deceased would have met the criteria of ten years contributions if unfortunate tragedy had not occurred.

[10] The Respondent submitted that:

- a) The deceased made valid contributions to the Canada Pension Plan for 9 years.
- b) The deceased must have made valid contributions to the Canada Pension Plan for a minimum of 10 years for the Appellant to be eligible for the benefits sought.

ANALYSIS

[11] In compliance with section 22 of the *Social Security Tribunal Regulations*, the Appellant was given notice in writing of the intent to summarily dismiss the appeal and was allowed a reasonable period of time to make submissions.

[12] The Tribunal is created by legislation and, as such, it has only the powers granted to it by its governing statute. The Tribunal is required to interpret and apply the provisions as they are set out in the CPP.

[13] The Tribunal finds the deceased made valid contributions to the Canada Pension Plan for 9 years. The deceased must have made valid contributions to the Canada Pension Plan for at least 10 years in order for the Appellant to be eligible for a death benefit and survivor's pension.

[14] The Tribunal has no authority or jurisdiction to alter the mandatory requirement of a minimum of 10 years contributions as stipulated in the Canada Pension Plan. There is no eligibility for a death benefit, survivor's pension and survivor's child pension in the absence of the required 10 years minimum contributions.

[15] Accordingly, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[16] The appeal is summarily dismissed.

Brian Rodenhurst
Member, General Division