



Citation: *MM v Minister of Employment and Social Development*, 2022 SST 972

Social Security Tribunal of Canada General Division – Income Security Section

Decision

Appellant: M. M.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated March 30, 2022 (issued by
Service Canada)

Tribunal member: Carol Wilton

Type of hearing: Teleconference

Hearing date: August 24, 2022

Hearing participant: Appellant

Decision date: August 30, 2022

File number: GP-22-843

Decision

[1] The appeal is dismissed.

[2] The Appellant, M. M., is not eligible for an increase in his Canada Pension Plan (CPP) retirement pension. This decision explains why I am dismissing the appeal.

Overview

[3] In January 2022, the month after the Appellant turned 65, the Minister converted the Appellant's Canada Pension Plan (CPP) disability pension to a CPP retirement pension.

[4] The Appellant contacted the Minister in May 2021 to ask the amount of the CPP retirement pension he would receive after he turned 65. When he learned that he would receive only \$166.46 a month, he asked the Minister to reconsider its decision. He believed that he was entitled to a much larger payment. He thought the payment was so low because he was a victim of fraud by family members.¹

[5] The reconsideration decision stated that the Minister could find no evidence of fraud. It maintained the Minister's original decision. The Appellant appealed the reconsideration decision to the General Division of the Social Security Tribunal (Tribunal).

What the Appellant must prove

[6] The Appellant raised many issues at the hearing and in his submissions. These included his workers' compensation payments (in the 1990s) and CPP disability payments (2011-2021). He believed that he had not received these benefits. He also thought that he had been deprived of funds from an injury in a 2008 car accident. He thought that he had not received these monies because various family members had

¹ GD2-9

taken the benefits for themselves, using his social insurance number. He also thought that family member had “stolen” his business.²

[7] At the start of the hearing, I explained that I had no authority to make a decision on these matters. The only issue before me is the amount of the Appellant’s CPP retirement pension.

[8] My authority to make a decision comes from legislation. The CPP gives me authority over appeals of certain of the Minister’s decisions. These are the reconsideration decisions.³ The CPP gives appellants the right to ask for and receive a reconsideration decision from the Minister if they are dissatisfied with an initial decision about their benefits.³ An appellant dissatisfied with the Minister’s reconsideration decision can appeal to the Tribunal’s General Division.⁴

[9] The reconsideration decision on this file concerned only the amount of the Appellant’s CPP retirement pension.⁵ So that is the only matter on which I can make a decision.

[10] In order to succeed, the Appellant must prove that it is more likely than not that the Minister made an error in determining the amount of his CPP retirement pension.

The Appellant’s submissions

[11] In January 2022, the month after the Appellant turned 65, a retirement pension automatically replaced his CPP disability pension. The amount he was receiving from the CPP was reduced from \$632.48 (the amount of his CPP disability pension) to \$166.46 (the amount of his CPP retirement pension).⁶

² GD10-3

³ Section 81 of the CPP

⁴ Service Canada usually makes the initial and reconsideration decisions on behalf of the Minister. See also section 82 of the CPP and sections 52-54 of the *Department of Employment and Social Development Act*.

⁵ GD2-5

⁶ GD2-30. However, the Appellant is receiving Old Age Security and other government benefits.

[12] The Appellant stated that someone had fraudulently kept his CPP contributions from 1989 to 1995 and from 2004 to 2007.⁷ Instead, he had been given his mother's CPP retirement pension, which was \$124.78.⁸ He stated that his CPP retirement pension should be \$496.74,⁹ plus his CPP contributions from 2004-2007. His view is that his CPP retirement pension should be more than \$600.¹⁰

The Minister's investigation found no evidence of fraud

[13] In March 2022, the Minister completed an investigation into the Appellant's claim of fraud. The Appellant claimed that his family members, lawyers, and an accountant were part of a criminal organization. In 2008, the organization had tried to kill him. His family members had taken his CPP contributions from 1989 to 1994.¹¹

[14] Several government departments investigated the Appellant's allegations. They found no evidence of fraud. They also found no evidence of adjustments or amendments made to his CPP contributions and earnings in the years when he said there was fraud.¹²

The Minister's calculations are correct

[15] The Minister's submissions explained the calculation of the amount of the Appellant's CPP retirement pension.¹³

[16] The Minister stated that the Appellant's contributory period was from January 1975 to December 2021, after which he began receiving CPP retirement. This is 564

⁷ He claimed to have earned \$15,000 or \$20,000 a year from 1992 to 1998: GD2-25, 29. This seems very unlikely. For example, in March 1995, neurosurgeon Dr. H. Thomas reported that the Appellant worked as a cashier for 10 hours a week: GD3-16. Ten hours a week as a cashier in 1995 would not have produced the income that the Appellant claimed. His pensionable earnings for that year were \$7,209: GD4-8.

⁸ GD10-5. There is no question that the Appellant was receiving \$166.46. I confirmed this with him at the hearing. See also GD1-17.

⁹ \$496.74 was the amount of the Appellant's CPP contributions in 1991.

¹⁰ GD10-7

¹¹ GD2-31. In November 2021, a Calgary doctor stated that the Appellant need a mental status assessment. He was having persecutory delusions and needed psychiatric management: GD1-57.

¹² GD2-30-31. The departments were the Canada Revenue Agency, CPP, and Employment Insurance.

¹³ GD4

months. Of this, the Minister excluded 128 months because the Appellant was disabled. This left 436 months in his contributory period. The drop-out factor for the pension calculation was $436 \times 15\%$, which leaves 370 months in the contributory period.¹⁴

[17] The Appellant's income for the years above totaled \$203,607.¹⁵ The Minister multiplied this by 25% and divided the total by the number of contributory months minus the number of drop-out months. This gave a figure of \$137.57 per month.

[18] Since the Appellant started getting a CPP disability pension in 2011, the retirement rate from that year was escalated by a factor of 1.21. This resulted in a figure of \$166.46.

[19] The Appellant did not dispute the Minister's method of calculating his CPP retirement pension.¹⁶

[20] I find that the Appellant has failed to prove that it is more likely than not that the Minister made an error in calculating his CPP retirement pension.

Conclusion

[21] The Appellant is not entitled to an increase in his CPP retirement pension.

[22] This means the appeal is dismissed.

Carol Wilton
Member, General Division – Income Security Section

¹⁴ The drop out factor is 15% because the Appellant's disability began before January 2012: subparagraph 48(4)(a)(1) of the CPP.

¹⁵ This figure was based on the Appellant's pensionable earnings from 1989 to 1995, and from 2004 to 2007. They were adjusted into current year dollars: GD4-7-8.

¹⁶ The Appellant's position was that the figures on which these calculations were based were wrong because of fraud. He did not quarrel with the formulas the Minister used.