



Citation: *Minister of Employment and Social Development v JL*, 2023 SST 369

## **Social Security Tribunal of Canada Appeal Division**

# **Decision**

**Appellant:** Minister of Employment and Social Development  
**Representative:** Érelégna Bernard

**Respondent:** J. L.

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**Decision under appeal:** General Division decision dated December 9, 2022  
(GP-21-2587)

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**Tribunal member:** Kate Sellar

**Type of hearing:** In Writing

**Decision date:** **March 27, 2023**

**File number:** AD-23-195

## Decision

[1] I'm allowing the appeal. I'm giving the decision that the General Division should have given: the Claimant's *Canada Pension Plan* (CPP) disability pension payments start October 2019. These reasons explain why.

## Background

[2] J. L. (Claimant) stopped working in February 2018 because of chronic pain, degenerative disc disorder, post-traumatic stress disorder, anxiety, and major depressive disorder.

[3] The Claimant applied for a CPP disability pension on March 29, 2018. The Minister of Employment and Social Development (Minister) refused his application initially and on reconsideration.

[4] The Claimant applied for a CPP disability pension again on September 11, 2020. The Minister refused the application initially and on reconsideration. This time, the Claimant appealed the Minister's decision to this Tribunal. The General Division allowed the Claimant's appeal, finding that he had a severe and prolonged disability within the meaning of the CPP. The General Division stated that payments start June 2018.

[5] I gave the Minister permission to appeal the General Division decision because it was arguable that the General Division made an error of law about when the Claimant's payments start.

## The parties agree on the outcome of the appeal

[6] The parties have asked for a decision based on an agreement they reached today during a settlement conference. The parties agree on the following:

- The Claimant March 2018 application was not the one that the Claimant appealed to the General Division.
- The Claimant applied for the disability pension again on September 11, 2020. That is the application that the Claimant appealed to the General Division.

- The Claimant proved he had a severe and prolonged disability within the meaning of the CPP by February 2018 when he stopped working.
- The earliest a claimant can be considered disabled for the purpose of the CPP is 15 months before they applied.<sup>1</sup>
- Since the Claimant applied in September 2020, the earliest he can be considered disabled for the purpose of the CPP is June 2019 (15 months before September 2020).
- Payments start four months later in October 2019.<sup>2</sup>

## **I accept the parties' agreement**

[7] In my view, the General Division made an error of law. The General Division could not approve payment that starts more than 15 months before the Claimant applied. The correct application to consider is the one that was under appeal, which is the September 2020 application. I accept the parties' agreement in its entirety. The Claimant is eligible for a disability pension under the CPP. The payments start October 2019, in accordance with the CPP.

## **Conclusion**

[8] I allow the Minister's appeal. The Claimant is entitled to a disability pension. Payments start October 2019.

Kate Sellar  
Member, Appeal Division

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<sup>1</sup> See section 42(2) of the *Canada Pension Plan* (CPP).

<sup>2</sup> The four-month waiting period for payment is in section 69 of the CPP.