



[TRANSLATION]

Citation: *VC v Minister of Employment and Social Development*, 2023 SST 530

Social Security Tribunal of Canada Appeal Division

Decision

Appellant:	V. C.
Representative:	M. C.
Respondent:	Minister of Employment and Social Development
Representative:	Jessica Grant

Decision under appeal:	General Division decision dated February 25, 2022(GP-21-2463)
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Tribunal member:	Jude Samson
Type of hearing:	In writing
Decision date:	April 25, 2023
File number:	AD-23-181

Decision

[1] The appeal is dismissed. The General Division didn't make an error in this case. This means that V. C. (Applicant) isn't eligible for a Canada Pension Plan (CPP) disability pension.

Overview

[2] The Applicant applied for a disability pension. The Minister of Employment and Social Development (Minister) refused the application. The Minister says that the Applicant didn't make enough CPP contributions to be eligible for a disability pension.

[3] The Applicant appealed the Minister's decision to this Tribunal's General Division. The General Division summarily dismissed the appeal. It found that the appeal had no reasonable chance of success.

[4] The Applicant is now appealing the General Division decision to the Appeal Division. In support of her appeal, the Applicant submitted new evidence to show her income from 2022. Unfortunately, the law doesn't allow me to consider that evidence. They would also not establish her eligibility to a disability pension.

[5] So, I am dismissing the Applicant's appeal.

Preliminary issue

[6] I am making this decision on the record.

[7] I don't have to schedule an oral hearing.¹ Instead, I decided the matter based on the documents already on file for the following reasons:

- The relevant facts are clear.

¹ Section 2 of the *Social Security Tribunal Regulations, 2022*, doesn't apply in this situation. Since this is an appeal of a summary dismissal decision, section 63 of the *Social Security Tribunal Rules of Procedure* and section 37(a) of the former *Social Security Tribunal Regulations* allow me to proceed without an oral hearing.

- The legal issues raised in the appeal aren't complex.
- Appeals to the Tribunal must be conducted in a manner that is simple, quick, and fair.

Issue

[8] Does the Applicant's new evidence allow me to intervene in this case?

Analysis

[9] I cannot intervene in this case based on new evidence.

[10] I can intervene in this case only if the General Division:

- didn't follow a fair process
- acted beyond its powers or refused to use them
- misinterpreted the law or applied it incorrectly
- got the facts wrong in a perverse manner or without regard for certain material²

[11] Rather than relying on one of these relevant errors (also known as "grounds of appeal"), the Applicant is introducing new evidence.³ This is to show that the Applicant made additional CPP contributions after the General Division decision.

[12] However, these documents don't show that the General Division made a relevant error. Most of these documents didn't exist when the General Division made its decision. So, the General Division cannot be blamed for not considering them.

² See section 58(1) of the *Department of Employment and Social Development Act*, as it was before December 5, 2022. Although the law was amended after that date, these amendments don't apply in this situation: See section 240(2) of the *Budget Implementation Act, 2021, No. 1*.

³ See AD1-9 to AD1-16 in the appeal file.

[13] The Federal Court has held that new evidence doesn't give the Appeal Division reasons to intervene in a case.⁴ The Federal Court of Appeal recently confirmed that the Appeal Division should not normally consider new evidence.⁵ None of the exceptions to this general rule applies in this situation.

[14] Also, even if I could consider the Applicant's new evidence, I am not persuaded that it is relevant. Specifically, the Applicant still doesn't have enough years of CPP contributions to be eligible for a disability benefit.⁶

[15] As noted before, the Appeal Division intervenes in a case only if the Appellant establishes that the General Division made at least one of the relevant errors. None of those errors were made in this case. So, I have to dismiss the appeal.

[16] I understand the Applicant's disappointment with this situation. But, my powers are limited to whether the General Division made an error by summarily dismissing her appeal. The Tribunal can't re-write or circumvent the law, even in cases that bring about a lot of sympathy.

Conclusion

[17] I am dismissing the Applicant's appeal.

Jude Samson
Member, Appeal Division

⁴ See *Tracey v Canada (Attorney General)*, 2015 FC 1300 at para 29; *Belo-Alves v Canada (Attorney General)*, 2014 FC 1100 at para 73.

⁵ *Sibbald v Canada (Attorney General)*, 2022 FCA 157.

⁶ See Minister's submissions at AD3.