



Citation: *AT v Minister of Employment and Social Development*, 2022 SST 1736

**Social Security Tribunal of Canada
General Division – Income Security Section**

Decision

Appellant: A. T.
Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated November 10, 2020 (issued
by Service Canada)

Tribunal member: Adam Picotte
Type of hearing: Teleconference
Hearing date: November 24, 2022
Hearing participants: Appellant
Decision date: November 24, 2022
File number: GP-21-75

Decision

[1] The appeal is dismissed.

[2] The Appellant, A. T., isn't eligible to have his CPP disability benefit reinstated. This decision explains why I am dismissing the appeal.

Overview

[3] The Appellant is 59 years old. In March 2012, he applied for a CPP disability benefit following his termination from employment in October 2009 due to schizophrenia and related impairments in his thought processes and social functioning. His application was approved and he received benefits up until February 2020 when the Minister determined that the Appellant no longer qualified to receive benefits.

[4] The Appellant says that I should allow his appeal for four reasons:

- He was discharged from the care of a specialist because of a lack of space;
- The fact he returned to school and obtained a bachelors degree is not the same as being medically better;
- His GP's opinion does not constitute medical improvement; and
- The Appellant's declaration about his health should not be used to constitute medical improvement.

[5] The Minister says it ceased the Appellant's benefits based upon his completion of a university post-graduate degree, reduction in his regular medication needs, and a report from his long-time family physician indicating that he was stable, cooperative, and compliant with treatment.

What the Respondent must prove

[6] Because the issue here is whether the Minister was correct to cancel the Appellant's CPP disability benefit, the Minister bears the onus of proving the Appellant was no longer disabled within the meaning of the CPP.

Reasons for my decision

[7] I find that the Minister has proven that the Appellant no longer had a severe and prolonged disability by February 2020.

Was the Appellant's disability severe?

[8] The Appellant's disability wasn't severe. I reached this finding by considering several factors. I explain these factors below.

– The Appellant's functional limitations no longer affected his ability to work

[9] The Appellant is schizophrenic.

[10] However, I can't focus on the Appellant's diagnosis.¹ Instead, I must focus on whether he had functional limitations that got in the way of him earning a living.² When I do this, I have to look at **all** of the Appellant's medical conditions (not just the main one) and think about how they affected his ability to work.³

[11] I find that the Appellant had functional limitations that affected his ability to work.

– What the Appellant says about his functional limitations

[12] The Appellant says that his medical condition continued to impact his functional limitations that affect his ability to work. He says that he decompensated twice and both times ended up in forensic hospitals.

[13] The first decompensation occurred in August 2021. He was taken to a forensic hospital and kept there until November 2021. He was eventually released without

¹ See *Ferreira v Canada (Attorney General)*, 2013 FCA 81.

² See *Klabouch v Canada (Attorney General)*, 2008 FCA 33.

³ See *Bungay v Canada (Attorney General)*, 2011 FCA 47.

treatment requirements being ordered. In Spring 2022, he decompensated again and remained in hospital until August 2022. While he was in hospital he was required to receive injections for his psychiatric condition. His doctor advised him that his condition is now in remission but he does not feel comfortable enough to work. He also notes that he is 60 years old and feels like he would not be marketable given his age.

– **What the medical evidence says about the Appellant’s functional limitations**

[14] The Respondent must provide medical evidence that demonstrates the Appellant no longer had functional limitations that affected his ability to work by February 2020.⁴

[15] The medical evidence supports the Minister’s position.

[16] In January 2020, a medical report from Dr. Kimelman was received by the Minister. The medical report confirmed the Appellant’s diagnosis but also noted that the Appellant did not currently have any functional limitations.⁵

[17] The true basis for the Appellant having reapplied for a CPP disability benefit, is seen in his March 23, 2020 correspondence to the Minister. In that letter her wrote that due the uncertainty over Covid-19, and the Canadian economy his financial capacity had been compromised. He remained without income and under these circumstances he requested a temporary reinstatement of his benefits until the economic conditions in Canada stabilized.⁶

[18] Unfortunately, for the Appellant his intended reorientation into the workforce occurred at the same time as the onset of a global pandemic. While this was a tragic timing, I have no ability to consider the pandemic circumstances. I am bound to consider entitlement in the context of his medical condition and specifically, whether it was severe and prolonged.

⁴ See *Warren v Canada (Attorney General)*, 2008 FCA 377; and *Canada (Attorney General) v Dean*, 2020 FC 206.

⁵ GD2-89

⁶ GD2-78

[19] In this case, the medical evidence is clear that for the year 2020 and part of 2021, the Appellant did not have functional impairments that got in the way of him earning a living.

– **The Appellant was able to work in the real world**

[20] When I am deciding whether the Appellant can work, I can't just look at his medical condition and how it affects what he can do. I must also consider factors such as his:

- age
- level of education
- language abilities
- past work and life experience

[21] These factors help me decide whether the Appellant can work in the real world—in other words, whether it is realistic to say that he can work.⁷

[22] I find that the Appellant can work in the real world.

The Appellant was able to find and keep a job

[23] If the Appellant can work in the real world, he must show that he tried to find and keep a job. Finding and keeping a job includes retraining or looking for a job he can do with his functional limitations.⁸

[24] The Appellant completed retraining throughout 2016 and 2017.

[25] Throughout 2016 and 2017, the Appellant attended X University. During his time at X University he completed a Masters degree in Data Science and Analytics. He also completed a certificate in Data Analytics.⁹

⁷ See *Villani v Canada (Attorney General)*, 2001 FCA 248.

⁸ See *Janzen v Canada (Attorney General)*, 2008 FCA 150.

⁹ GD2-95

[26] During this time he participated as a graduate teaching assistance. In this role he assisted with instructions in a university data analytics course.

[27] Upon having his benefits ceased, the Appellant commenced work as a consultant. He started his own company and paid himself a salary. He told me that in 2020 and 2021, he paid himself a salary of \$20,000 a year. The work he did was in computer software development. In this capacity he managed the company affairs. This included setting up a website, completing taxes and account. He also filed patents with the Patent Office for his business. He was fully responsible for the operation of the business.

[28] The fact is the Appellant operated his business for close to two years, earning \$20,000 a year, after completing a degree and certificate course. His doctor provided medical evidence that the Appellant no longer had functional impairments. The Minister was correct to cancel the Appellant's entitlement to a CPP disability benefit. While it is unfortunate that immediately after this, the Appellant was faced with a global pandemic, this is not something I can consider in the context of entitlement to a CPP disability benefit.

[29] For these reason, the appeal is dismissed.

Conclusion

[30] I find that the Appellant was no longer eligible for a CPP disability pension because his disability was no longer severe as of February 2020. Because I have found that his disability was no longer severe, I didn't have to consider whether it was no longer prolonged.

[31] This means the appeal is dismissed.

Adam Picotte
Member, General Division – Income Security Section