



Citation: *DH v Minister of Employment and Social Development*, 2023 SST 624

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: D. H.
Representative: J. M.

Respondent: Minister of Employment and Social Development
Representative: Érelégna Bernard

Decision under appeal: General Division decision dated February 13, 2023
(GP-21-1829)

Tribunal member: Kate Sellar

Type of hearing: In Writing

Decision date: **May 19, 2023**

File number: AD-23-312

Decision

[1] I'm allowing the appeal. The Claimant is entitled to a *Canada Pension Plan* (CPP) disability pension. Payments start from November 2019. These are the reasons for my decision.

Background

[2] D. H. (Claimant) worked as a quality control operator from December 2007 until April 2016 when she was laid off. Her main condition is myofascial pain syndrome. She has had carpal tunnel syndrome since 2004. She had an unsuccessful operation on her right hand in 2005. She also has headaches, bilateral bursitis or tendonitis of the shoulders, and chronic pain in her neck and back.

[3] The Claimant applied for a CPP disability pension on October 22, 2020. The Minister of Employment and Social Development (Minister) refused her application initially and on reconsideration. The Claimant appealed the Minister's decision to this Tribunal. The General Division dismissed her appeal, finding that her disability wasn't severe.

The parties agree on the outcome of the appeal

[4] The parties have asked for a decision based on an agreement they reached during a settlement conference on May 19, 2023.¹

[5] The parties agree on the following:

- The Appeal Division should allow the appeal.
- The Claimant proved that she had a severe and prolonged disability within the meaning of section 42(2) of the CPP.

¹ See section 39(2) of the *Social Security Tribunal Rules of Procedure*.

- The Claimant became disabled after she stopped working in 2016. The last day of her coverage period was not until December 31, 2018.
- The Claimant applied for the disability pension in October 2020. Section 42(2)(b) of the CPP says that the earliest a claimant can be considered disabled within the meaning of the CPP is 15 months before they applied. For the Claimant, that date is July 2019. In accordance with section 69 of the CP, payments start four months later in November 2019.

I accept the parties' agreement

[6] I accept the parties' agreement.

[7] The Claimant's main condition is myofascial pain syndrome. She had multiple functional limitations that made it difficult for her to work after her employer laid her off in 2016. She has additional barriers to employability in addition to those functional limitations. She took reasonable steps to manage her disability and did not refuse treatment unreasonably.

[8] I am satisfied that she is incapable regularly of pursuing any substantially gainful work. That means that her disability is severe within the meaning of the CPP.

[9] The Claimant's disability is long continued and of indefinite duration, so it is prolonged within the meaning of the CPP.

Conclusion

[10] I allow the appeal. The Claimant is entitled to a *Canada Pension Plan* disability pension. Payments start November 2019.

Kate Sellar
Member, Appeal Division