



Citation: *LT v Minister of Employment and Social Development*, 2023 SST 729

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: L. T.
Representative: S. R.

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

Decision under appeal: General Division decision dated March 28, 2023
(GP-21-1750)

Tribunal member: Kate Sellar

Type of hearing: In Writing

Decision date: **June 5, 2023**

File number: AD-23-443

Decision

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

Background

[2] L. T. (Claimant) worked a series of short-term jobs like driving for an app and working as a lube technician. He also owned a food truck. In November 2018, he got in a car accident and stopped working. In April 2019, he had a heart attack. He had heart surgery in 2020. He has headaches and heart issues. He experiences pain in his knees, lower back, neck, and both shoulders. He has cognitive issues, depression, anxiety, and post-traumatic stress disorder.

[3] The Claimant applied for a CPP disability pension on October 16, 2020. The Minister of Employment and Social Development (Minister) refused the application initially and on reconsideration. The Claimant appealed the Minister's decision to this Tribunal.

[4] The General Division dismissed his appeal. The General Division decided that the Claimant had some functional limitations, but that he could retrain for suitable work. The General Division decided that he had some capacity for work and didn't show that efforts to get and keep work failed because of his disability.

The parties agree on the outcome of the appeal

[5] The parties have asked for a decision based on an agreement they reached during a settlement conference on June 5, 2023.¹

[6] The parties agree on the following:

- The Appeal Division should allow the appeal.

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

- The Claimant proved that he had a severe and prolonged disability within the meaning of section 42(2)(a) of the CPP.
- The Claimant became disabled after his car accident when he stopped working in November 2018. The Claimant's coverage period didn't end until December 31, 2020.
- The Claimant applied for the disability pension in October 2020. According to section 42(2)(b) of the CPP, the earliest a claimant can be considered disabled is 15 months before they applied. For the Claimant, that date is July 2019. In accordance with section 69 of the CPP, payments start four months later in November 2019.

I accept the parties' agreement

[7] I accept the parties' agreement.

[8] I'm satisfied that the Claimant has a severe disability within the meaning of the CPP. He had multiple and overlapping functional limitations that meant he was incapable regularly of pursuing any substantially gainful occupation. In addition to his identified functional limitations, he had additional barriers to employability. He took reasonable steps to manage his disability and did not refuse treatment unreasonably.

[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