



Citation: *JB v Minister of Employment and Social Development*, 2023 SST 1375

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: J. B.

Respondent: Minister of Employment and Social Development
Representative: Dylan Edwards

Decision under appeal: General Division decision dated May 5, 2023
(GP-22-1845)

Tribunal member: Kate Sellar

Type of hearing: In Writing

Decision date: **October 11, 2023**

File number: AD-23-841

Decision

[1] I'm allowing the appeal. The Claimant is entitled to a *Canada Pension Plan* (CPP) disability pension. Payments start April 2021. These are the reasons for my decision.

Background

[2] J. B. (Claimant) worked for 20 years in printing. In 2011 he had an accident that resulted in an injury to his back and left knee. He stopped working because of chronic pain to those areas. The Minister allowed his application for the CPP disability pension in 2012.

[3] The Claimant started working again in 2014 as a forklift driver for a car manufacturing company. He also had to work on the assembly line from time to time. In 2019 he went on a stress leave for three months. He hasn't worked since the end of 2019. He now has Major Depressive Disorder (MDD) in addition to chronic pain. His symptoms of MDD include low energy, poor sleep, lack of motivation, and lack of focus.

[4] The Claimant applied for a CPP disability pension again on March 21, 2022. The Minister refused his application initially and on reconsideration. The Claimant appealed the Minister's decision to this Tribunal. The General Division dismissed his appeal, finding that the Claimant's disability wasn't severe because he hasn't followed medical advice and hasn't given a reasonable explanation for not following the advice.

[5] The Claimant received permission to appeal the General Division decision.

The parties agree on the outcome of the appeal

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

- The Appeal Division should allow the Claimant's appeal. The Appeal Division does not need to hold a hearing.

- The Claimant's disability was severe and prolonged within the meaning of section 42(2)(a) of the CPP as of March 2022 when he applied (this is called his date of onset).¹
- According to section 42(2)(b) of the CPP, the earliest a claimant can be considered disabled for the purpose of payment of the disability pension is 15 months before they applied. Since the Claimant applied in March 2022, the earliest he can be considered disabled for the purpose of payment is December 2020.
- According to section 69 of the CPP, a four-month waiting period applies, so the Claimant's payments start April 2021.

I accept the parties' agreement

[7] I accept the parties' agreement in its entirety.

[8] I'm satisfied that the Claimant was incapable regularly of pursuing any substantially gainful occupation when he applied for the disability pension in March 2022. That means his disability was severe within the meaning of the CPP.²

[9] The Claimant has MDD and chronic pain. He has low energy, poor sleep, lack of motivation, and lack of focus. He experiences severe pain made worse by bending, reaching, squatting, walking, and prolonged standing. All the functional limitations taken together mean that he isn't capable regularly of pursuing any substantially gainful work. The Claimant is taking steps to manage his medical conditions and hasn't refused treatment unreasonably. His coverage period isn't over until December 31, 2023.³

[10] I'm satisfied that the Claimant's condition was long-continued and of indefinite duration when he applied in March 2022. This means his disability is prolonged within the meaning of the CPP.

¹ See GD2-36 for the application.

² See section 42(2) of the *Canada Pension Plan* (CPP).

³ See GD2-8 to 9 for the Claimant's contributions to the CPP.

[11] The parties' agreement sets out the correct payment dates in accordance with the Claimant's application. His payments start April 2021.

Conclusion

[12] I allow the Claimant's appeal. In accordance with the parties' agreement and the CPP, payments start April 2021.

Kate Sellar
Member, Appeal Division