



Citation: *RS v Minister of Employment and Social Development*, 2023 SST 1713

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

**Decision**

**Appellant:** R. S.

**Respondent:** Minister of Employment and Social Development  
**Representative:** Suzette Bernard

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated May 17, 2016 (issued by  
Service Canada)

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**Tribunal member:** Shannon Russell

**Type of hearing:** In Writing

**Decision date:** October 13, 2023

**File number:** GP-17-2844

## Decision

[1] The appeal is dismissed.

[2] The Appellant, R. S., isn't eligible for the disabled contributor's child's benefits (DCCB) earlier than March 2015.

## Overview

[3] The Appellant began receiving Canada Pension Plan (CPP) disability benefits in 1998.<sup>1</sup> In January 2011, the Appellant began living with his partner. She had two children. The children were born in April 2006 and June 2007. These two children came under the Appellant's custody and control in January 2011.<sup>2</sup>

[4] In February 2016, the Appellant applied for the DCCB on behalf of the children.<sup>3</sup> The Minister approved the application and awarded the benefits retroactive to March 2015 (11 months before the date of application).<sup>4</sup>

[5] The Appellant wanted the benefits to start in January 2011, and so he asked the Minister to reconsider its decision.<sup>5</sup> The Minister reconsidered, and decided to maintain the effective date of payment as March 2015.<sup>6</sup>

[6] The Appellant appealed the Minister's reconsideration decision to the Social Security Tribunal's General Division. He appealed because he disagrees with the 11-month limit on retroactive benefits.

## This appeal has a very long history

[7] This appeal has a very long history. In fact, this appeal began in 2016.

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<sup>1</sup> Page GD2-65

<sup>2</sup> Pages GD2-14 and GD2-18

<sup>3</sup> The application is at pages GD11-10 to GD11-11.

<sup>4</sup> The Minister's approval letter is at page GD2-15.

<sup>5</sup> The Appellant's request for reconsideration is at page GD2-10.

<sup>6</sup> The Minister's reconsideration decision is at page GD2-8.

[8] I summarized the appeal history in my interlocutory decision of October 12, 2023. There is no need for me to repeat the summary here.

[9] It is enough for me to say that this appeal was previously a Charter appeal. However, in my interlocutory decision of October 12, 2023, I determined that this appeal would no longer proceed as a Charter appeal. Instead, it would proceed as a regular appeal.

## **Method of Proceeding**

### **I am rendering my decision on the record**

[10] I decided to render my decision on the record, without an oral hearing.<sup>7</sup>

[11] First, the Appellant has repeatedly asked me to conduct the proceedings in writing.<sup>8</sup> Now that this appeal is no longer a Charter appeal, I see no reason to depart from the Appellant's preference.

[12] Second, the facts in this appeal are not in dispute.

### **What the Appellant must prove**

[13] To succeed with his appeal, the Appellant needs to show that he is eligible for the DCCB earlier than March 2015.

### **The DCCB was paid in accordance with the law**

[14] To receive a benefit under the CPP, a person must first apply for that benefit in writing.<sup>9</sup>

[15] Subsection 74(2) of the CPP says that the earliest that the DCCB can be paid is 11 months before the date of application for the DCCB.

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<sup>7</sup> I explained this in my interlocutory decision of October 12, 2023.

<sup>8</sup> See, for example, page IS39-1. The Appellant made a similar request during the hearing of April 2022 that was adjourned.

<sup>9</sup> Subsection 60(1) of the *Canada Pension Plan*.

[16] The Appellant received the most retroactivity that can be awarded under subsection 74(2) of the CPP.

[17] The Appellant applied for the DCCB in February 2016 and he was paid the benefits retroactive to March 2015.

### **I can't ignore or amend the law**

[18] The Appellant may not agree with the 11-month limit on DCCB payments. However, I can't ignore the law and I can't change the law. This is so even in the face of extenuating circumstances.

[19] While the Appellant has raised an incapacity argument in the past, that argument has already been addressed in an interlocutory decision of July 2021.

### **Conclusion**

[20] The Appellant isn't eligible for the DCCB earlier than March 2015.

[21] This means the appeal is dismissed.

Shannon Russell  
Member, General Division – Income Security Section