



Citation: *SB v Minister of Employment and Social Development and X*, 2024 SST 50

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: S. B.

Respondent: Minister of Employment and Social Development
Respondent's representative: Judy Au

Added Party: X
Added Party's representative: Cindy Boyd

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated January 23, 2023 (issued
by Service Canada)

Tribunal member: James Beaton

Type of hearing: Teleconference
Hearing date: January 10, 2024
Hearing participants: Appellant
Respondent's representative
Added Party's representative

Decision date: January 11, 2024
File number: GP-23-743

Decision

[1] The appeal is dismissed.

[2] The Appellant, S. B., isn't eligible for a Canada Pension Plan (CPP) death benefit in respect of her daughter, C. B. This decision explains why I am dismissing the appeal.

Overview

[3] The death benefit is a one-time payment that is payable when a person dies.

[4] On August 17, 2013, C. B. passed away.¹ A funeral was held.

[5] On September 5, 2013, the Added Party, X, provided Service Canada (that is, the Minister of Employment and Social Development) with a death benefit application in respect of C. B..² It also submitted C. B.'s death certificate and an invoice for funeral services provided by X Funeral Home in respect of C. B..³ The invoice was dated August 20, 2013. Specific items listed were "arranging & administration," "clergy honourarium," and "death registration fee" totalling \$5,665.81.

[6] On September 12, 2013, the Minister paid the entire death benefit (which was \$556.50) to the Added Party as a partial reimbursement of those expenses.⁴

[7] On March 14, 2022 (almost nine years later), the Appellant also applied for the death benefit.⁵ She too submitted a copy of C. B.'s death certificate and an invoice dated August 22, 2013, for services provided by X Funeral Home in respect of C. B. The only item on the invoice was "automobiles" totalling \$339.00.⁶ In addition, she submitted two invoices from X for the cemetery lot, the headstone, and the burial. These two invoices totalled \$5,593.50.⁷

¹ See GD2-14.

² See GD4-14 to 16.

³ See GD4-17 and 18.

⁴ See GD4-16 for the payment date and GD7-6 for the amount of the death benefit.

⁵ See GD2-11 to 13.

⁶ See GD2-14 and 15.

⁷ See GD2-16 and 17.

[8] The Minister refused the Appellant's application because it had already paid the death benefit to the Added Party. The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

What I have to decide

[9] I have to decide whether the Appellant is eligible for the death benefit.

What the law says

[10] The *Canada Pension Plan* sets out who is entitled to a death benefit when someone dies. By default, the death benefit is payable to the estate or succession of the deceased contributor.⁸ But there are three exceptions to this general rule. In the following three situations, the rule **does not** apply:⁹

- a) After making reasonable inquiries, the Minister finds that there is no estate.
- b) The estate didn't apply within 60 days of the contributor's death.
- c) The amount of the death benefit is less than the "prescribed amount."

[11] If one of these exceptions applies, then the Minister **may** pay the death benefit to the individual or institution who paid, or is responsible for paying, the funeral expenses—but only up to the amount of the funeral expenses.¹⁰ Then, if the death benefit is greater than the funeral expenses, the rest of the funds may be paid to the contributor's survivor or next of kin.¹¹

[12] The Minister's power to pay the death benefit to someone other than the estate or succession of the contributor is **discretionary** rather than mandatory. This means the Minister may use this power but it doesn't have to. If it uses this power, it must act judicially. In other words, the Minister must not:

- act in bad faith

⁸ See sections 44(1)(c) and 71(1) of the *Canada Pension Plan (Act)*.

⁹ See section 71(2) of the Act and section 64(1) of the *Canada Pension Plan Regulations (Regulations)*.

¹⁰ See sections 64(1) and (2) of the Regulations.

¹¹ See section 64(3) of the Regulations.

- act for an improper purpose or motive (the wrong reason)
- consider an irrelevant factor
- ignore a relevant factor
- discriminate¹²

Reasons for my decision

[13] In this case, an exception to the rule applied. The amount of the death benefit was less than the prescribed amount. Based on the date of C. B.'s death, the "prescribed amount" of the death benefit was \$2,387.¹³ The Minister calculated the actual amount of the death benefit using section 57(1) of the *Canada Pension Plan*, as it was required to do. It calculated the actual death benefit to be \$556.50.¹⁴ This is less than the prescribed amount of \$2,387.

[14] Because an exception applied, the Minister was allowed to pay the death benefit, up to the amount of the funeral expenses, to the institution who paid the funeral expenses. Based on the invoice from the Added Party, the Minister reasonably concluded that the Added Party had paid, or was responsible for paying, the funeral expenses.

[15] The death benefit was less than the amount of the funeral expenses. So it paid the full death benefit to the Added Party. There was nothing left over to pay to C. B.'s survivor or next of kin, including the Appellant.

[16] The Minister followed the rules in the *Canada Pension Plan* when it used its power to pay the death benefit to the Added Party.

[17] Furthermore, the Minister acted judicially. There is no evidence that the Minister acted in bad faith, or for an improper purpose or motive, or in a discriminatory way.

¹² See *Canada (Attorney General) v Uppal*, 2008 FCA 388; and *Canada (Attorney General) v Purcell*, [1996] 1 FC 644.

¹³ See section 64(1) of the Regulations. The Appellant asked why the death benefit wasn't \$2,500. The death benefit is only \$2,500 if the contributor died after December 31, 2018, and if the death benefit is payable to the estate or succession of the contributor. See section 57(1)(b) of the *Canada Pension Plan*.

¹⁴ The Minister used C.'s CPP contributions (GD7-4) to make this calculation.

There is no evidence that it considered an irrelevant factor or ignored a relevant factor. There was no evidence before the Minister at the time to suggest that the Added Party had not actually paid the funeral expenses on the invoice it provided, or that someone else (like the Appellant) had paid some of the funeral expenses as well.

[18] When the Minister has properly paid the death benefit, as it did here, it isn't required to pay the death benefit to anyone else who might apply later.¹⁵

Conclusion

[19] I find that the Appellant isn't eligible for the death benefit in respect of C. B.

[20] This means the appeal is dismissed.

James Beaton

Member, General Division – Income Security Section

¹⁵ See section 71(3) of the Act.