



Citation: *EM v Minister of Employment and Social Development*, 2024 SST 189

## Social Security Tribunal of Canada Appeal Division

# Decision

**Appellant:** E. M.

**Respondent:** Minister of Employment and Social Development  
**Representative:** Yanick Bélanger

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**Decision under appeal:** General Division decision dated October 31, 2023  
(GP-23-410)

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**Tribunal member:** Neil Nawaz

**Type of hearing:** Teleconference

**Hearing date:** February 27, 2024

**Hearing participants:** Appellant  
Respondent's representative

**Decision date:** February 27, 2024

**File number:** AD-23-1067

## Decision

[1] The appeal is allowed in accordance with an agreement reached between the parties.

## Overview

[2] The Appellant is a 49-year-old former forklift driver who was employed by X for nearly 20 years. Over time, he developed severe back pain that prevented him from repetitive bending and lifting, as well as from extended sitting or standing. Eventually, imaging showed multiple disc herniations in his spine. X let him go in August 2010.

[3] The Appellant went on to earn a real estate broker's license, but he says he was never able to earn a living in that field because of his impairment. In June 2022, he applied for a Canada Pension Plan (CPP) disability pension. The Minister of Employment and Social Development refused the application after determining that the Appellant did not have a severe and prolonged disability before the end of his minimum qualifying period (MQP), which ended on December 31, 2014.<sup>1</sup>

[4] The Appellant appealed the Minister's refusal to the Social Security Tribunal's General Division. It held a hearing by teleconference and dismissed the appeal. It found that, although the Appellant was unable to perform his previous job as a forklift operator, he was still capable of non-physical employment.

[5] The Appellant then asked the Appeal Division for permission to appeal, alleging that the General Division had made various errors in arriving at its decision. Late last year, one of my colleagues on the Appeal Division allowed the Appellant's appeal to proceed.

[6] I held a hearing to discuss the Appellant's claim appeal in full. Midway through the hearing, the Minister's representative requested an impromptu settlement

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<sup>1</sup> An MQP is established by working and contributing to the CPP. It is the period in which a contributor had coverage for the CPP disability pension.

conference. At the conference, the parties reached an agreement, and they have asked me to prepare a decision that reflects that agreement.

## Agreement

[7] The Minister conceded that the Appellant was disabled as of December 2014, the last date on which he had CPP disability coverage. The Minister accepted that the Appellant's chronic back pain rendered him regularly incapable of working in any substantially gainful occupation during his MQP and thereafter.<sup>2</sup>

[8] The Appellant expressed his agreement with these statements.

## Conclusion

[9] I hereby allow the appeal in accordance with the parties' agreement. Since the Minister received the Appellant's application for benefits in June 2022, the Appellant is deemed disabled as of March 2021.<sup>3</sup> That means the effective start date of the Appellant's CPP disability pension is July 2021.<sup>4</sup>



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Member, Appeal Division

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<sup>2</sup> Refer to recording of the hearing held on February 27, 2024.

<sup>3</sup> Under section 42(2)(b) of the *Canada Pension Plan*, a person cannot be deemed disabled more than 15 months before the Minister received the application for a disability pension.

<sup>4</sup> According to section 69 of the *Canada Pension Plan*, payments start four months after the deemed date of disability.