



Citation: *LT v Minister of Employment and Social Development*, 2024 SST 1225

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:** L. T.

**Respondent:** Minister of Employment and Social Development

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**Decision under appeal:** General Division decision dated April 23, 2024  
(GP-23-762)

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**Tribunal member:** Kate Sellar

**Decision date:** October 11, 2024

**File number:** AD-24-561

## Decision

[1] I'm refusing to give the Claimant, L. T., permission to appeal. This means that his appeal of the General Division decision will not proceed. These are the reasons for my decision.

## Overview

[2] The Claimant is legally blind. He's had a successful career as a voice-over actor for cartoons. However, his deteriorating eye condition has made it harder to do his job and earn a living.

[3] The Claimant applied for a *Canada Pension Plan* (CPP) disability pension on September 22, 2020. To qualify for the disability pension, the Claimant had to show that his disability became severe and prolonged within the meaning of the CPP on or before December 31, 2023 (the last day of his coverage period).

[4] The Minister of Employment and Social Development (Minister) refused his application initially and in a reconsideration letter. The Claimant appealed the Minister's decision to this Tribunal.

[5] The General Division allowed the Claimant's appeal. The General Division decided that the Claimant proved that his disability became severe and prolonged within the meaning of the CPP by January 2021. Payments start four months later in May 2021.

## Issues

[6] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error that would justify giving the Claimant permission to appeal?
- b) Does the application set out evidence that wasn't presented to the General Division?

## **I'm not giving the Claimant permission to appeal**

[7] I can give the Claimant permission to appeal if the application raises an arguable case that the General Division:

- didn't follow a fair process;
- acted beyond its powers or refused to exercise those powers;
- made an error of law;
- made an error of fact; or
- made an error applying the law to the facts.<sup>1</sup>

[8] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.<sup>2</sup>

[9] Since the Claimant hasn't raised an arguable case and hasn't set out new evidence that relates to an issue on appeal, I must refuse permission to appeal.

## **There's no arguable case that the General Division made an error that would justify giving the Claimant permission to appeal.**

[10] The Claimant is appealing the General Division decision because he is seeking further financial remuneration than simply CPP disability benefits beginning in May 2021.<sup>3</sup>

[11] The Claimant argues that he has been disabled since birth (his blindness is congenital). He has had to withdraw funds from his RRSPs to survive.

[12] He has explained that he had an accountant who stole money from him and left him in a terrible financial situation. He also explains that his future income would have

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<sup>1</sup> Section 58.1(a) and (b) in the *Department of Employment and Social Development Act* (Act).

<sup>2</sup> Section 58.1(c) of the Act.

<sup>3</sup> AD1.

been high if he had been able to continue to work.<sup>4</sup> The Claimant finds the CPP rules about how far back a pension can start to be unacceptable.<sup>5</sup>

[13] The General Division found that the Claimant's disability became severe and prolonged within the meaning the CPP in January 2021.<sup>6</sup>

[14] This doesn't mean that the Claimant developed his medical conditions only at that point. It means that by January 2021, he was incapable regularly of pursuing any substantially gainful occupation (his disability became severe). And it means that his disability became long-continued and of indefinite duration (his disability became prolonged).<sup>7</sup>

[15] As the General Division stated, there is a four-month waiting period for CPP disability pension payments.<sup>8</sup>

[16] So, once the General Division found that the Claimant became disabled within the meaning of the CPP in January 2021, it stated that payments start four months later in May 2021.<sup>9</sup>

[17] In my view, the Claimant hasn't raised an arguable case that the General Division made any error either in law or in fact about when his CPP disability pension should start.

[18] The Claimant has provided a series of reasons why he would benefit from more funds based on his disability and his life history. However, none of those reasons are connected to the law the General Division had the power apply.

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<sup>4</sup> AD1B-3.

<sup>5</sup> See AD1B-3.

<sup>6</sup> Paragraphs 47 and 49 in the General Division decision.

<sup>7</sup> Paragraphs 8 to 12 in the General Division decision, and section 42(2)(a) in the *Canada Pension Plan* (CPP).

<sup>8</sup> Section 69 of the CPP.

<sup>9</sup> Paragraphs 51 and 52 in the General Division decision.

[19] The General Division isn't tasked with deciding cases about compensating people with congenital disabilities generally. The CPP disability pension is only a partial income replacement.

[20] If a person becomes incapable regularly of pursuing any substantially gainful occupation during their coverage period (and their disability is long continued and of indefinite duration), they can collect a pension that partially replaces the income they made when they were working and contributing to the Canada Pension Plan. The degree of financial need doesn't dictate the amount a claimant receives.

[21] The rules state when the payments can start based on when a Claimant becomes disabled (and when they applied).

[22] The General Division allowed the Claimant's appeal and found he was eligible for a disability pension.<sup>10</sup> The General Division explained when the pension payments would start based on when he became disabled within the meaning of the CPP (not when his medical condition started).<sup>11</sup>

[23] The Claimant has raised no possible error with the General Division decision that has a reasonable chance of success. The date that disability pension payments start is set out in the law, and there is no ability for the Tribunal to veer in any way from what the law says about the start date for CPP pension payments.

### **The Claimant didn't provide any new evidence that relates to an issue in the appeal.**

[24] The Claimant provided some additional evidence at the Appeal Division, namely:

- documents relating to a bankruptcy<sup>12</sup>; and

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<sup>10</sup> See paragraphs 47 and 50 in the General Division decision.

<sup>11</sup> See paragraphs 51 and 52 in the General Division decision.

<sup>12</sup> See AD1D-2 to 4

- a letter from the Claimant's current accountant.<sup>13</sup>

[25] The Claimant also stated that he could provide additional information about RRSP withdrawals he had to make to get by financially.

[26] The Claimant didn't provide or set out any new evidence that wasn't already presented to the General Division that relates to any issue in the appeal.

[27] The document relating to bankruptcy and the information from the Claimant's current accountant doesn't relate to the issue on appeal. The General Division found that the Claimant is eligible for the disability pension starting when his disability became severe and prolonged. In accordance with the CPP, nothing about the financial information the Claimant provided can possibly change that decision.

[28] Similarly, the evidence the Claimant has set out that he can provide in future doesn't relate to the issue on appeal.

[29] Providing evidence of RRSP withdrawals isn't evidence that is even arguably relevant to the question of when his pension can start.<sup>14</sup> There's no conclusion that the Tribunal can draw about the amount of CPP disability pension the Claimant can receive from a record of those withdrawals.

[30] Accordingly, new evidence also cannot form the basis for permission to appeal.

[31] I've reviewed the record.<sup>15</sup> I'm satisfied that the General Division didn't ignore or misunderstand any important evidence in this case that could have impacted the outcome for the Claimant. The Claimant was no longer working in January 2021, and accordingly the General Division applied the facts about the Claimant's disability to the law. The General Division found that he was entitled to a disability pension and the pension started as soon as is possible under the law.

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<sup>13</sup> See AD1C-3

<sup>14</sup> See AD1B-3.

<sup>15</sup> Reviewing the record in a case like this is consistent with the Federal Court's decision in *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

[32] As the Claimant is aware, the Minister has also appealed the General Division decision, for different reasons. The Minister is not arguing against the Claimant's eligibility in that appeal either. Nothing in this decision changes the status of that appeal.

## **Conclusion**

[33] I've refused to give the Claimant permission to appeal the General Division decision. He hasn't raised an arguable case for an error by the General Division. This means that his appeal of the General Division will not proceed. This decision has no impact on the Minister's appeal of the General Division decision.

Kate Sellar  
Member, Appeal Division