



Citation: *PP v Minister of Employment and Social Development*, 2025 SST 262

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: P. P.
Representative: C. O.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated April 10, 2024 (issued by
Service Canada)

Tribunal member: Selena Bateman

Type of hearing: Videoconference

Hearing date: March 20, 2025

Hearing participants: Appellant
Appellant's representative

Decision date: March 24, 2025

File number: GP-24-774

Decision

[1] The appeal is dismissed.

[2] The Appellant, P. P., isn't eligible for a Canada Pension Plan (CPP) disability pension. This decision explains why I am dismissing the appeal.

Overview

[3] The Appellant is 52 years old. He worked as an electrical engineer. He claims to be disabled as of December 2004, after he says he broke his leg and developed anxiety and depression. He last worked in August 2003 when he was laid off work.

[4] The Appellant applied for a CPP disability pension on September 7, 2023. The Minister of Employment and Social Development (Minister) refused his application. The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

[5] The Appellant says that despite not having medical evidence by 2005, the later medical evidence supports that he had a severe disability by this time. He says that he had poor emotional and cognitive abilities.¹

[6] The Minister says that the medical evidence doesn't support a finding of disability. The Minister says that the earliest medical records on file are from 2011, and that there wasn't an indication that he required psychiatric care earlier.²

¹ See GD2-39 to 58.

² See GD4.

What the Appellant must prove

[7] For the Appellant to succeed, he must prove he has a disability that was severe and prolonged by December 31, 2005. This date is based on his CPP contributions.³ He must also prove that he continues to be disabled.⁴

[8] The *Canada Pension Plan* defines “severe” and “prolonged.”

[9] A disability is **severe** if it makes an appellant incapable regularly of pursuing any substantially gainful occupation. A disability is **prolonged** if it is likely to be long continued and of indefinite duration, or is likely to result in death.⁵

[10] The Appellant must prove he has a severe and prolonged disability on a balance of probabilities. He must show it is more likely than not that he is disabled.

Reasons for my decision

[11] The Appellant hasn’t proven he had a severe and prolonged disability by December 31, 2005. I dismissed the appeal because there was a lack of objective medical evidence. He didn’t have medical evidence that addressed his health conditions around 2005. The later medical evidence didn’t back up that he had a severe disability by this time either.

The Appellant’s disability wasn’t severe

[12] The Appellant’s disability wasn’t severe. I reached this finding by considering several factors. I explain these factors below.

³ Service Canada uses an appellant’s years of CPP contributions to calculate their coverage period, or “minimum qualifying period” (MQP). The end of the coverage period is called the MQP date. See section 44(2) of the *Canada Pension Plan*. The Appellant’s CPP contributions are on GD2-9 to 11.

⁴ In *Canada (Attorney General) v Angell*, 2020 FC 1093, the Federal Court said that the appellant has to show a severe and prolonged disability by the end of their minimum qualifying period and continuously after that. See also *Brennan v Canada (Attorney General)*, 2011 FCA 318.

⁵ Section 42(2)(a) of the *Canada Pension Plan* gives this definition of severe and prolonged disability. Section 68.1 of the *Canada Pension Plan Regulations* says a job is “substantially gainful” if it pays a salary or wages equal to or greater than the maximum annual amount a person could receive as a disability pension.

– **The Appellant’s functional limitations affected his ability to work after 2005**

[13] After the end of 2005, the Appellant was diagnosed with anxiety and depression. The available medical evidence doesn’t support that he was diagnosed with any mental health condition before this time.

[14] I do note that medical imaging in 2011 showed that he had healed broken bones in his leg. Yet there is no mention in the medical evidence of when the injury occurred.

[15] However, I can’t focus on the Appellant’s diagnoses.⁶ Instead, I must focus on whether he has functional limitations that got in the way of him earning a living.⁷ When I do this, I have to look at **all** of the Appellant’s medical conditions (not just the main one) and think about how they affected his ability to work.⁸

– **What the Appellant says about his functional limitations**

[16] The Appellant says that his medical conditions have resulted in functional limitations that affect his ability to work. He says that he fractured his right leg and ankle in December 2004. He claims that after this he developed depression and anxiety. This is the basis of his current appeal. He says that his limitations from his leg condition have resolved.

[17] The Appellant says that by 2005:

- He believed that sometimes people were taking about him behind his back.
- He felt depressed about two days per week. He would leave cleaning tasks to his mother to complete.
- He was hardly sleeping.
- He could walk for 45 minutes.
- He didn’t go to the grocery store alone after December 2004 because he was anxious and nervous.

⁶ See *Ferreira v Canada (Attorney General)*, 2013 FCA 81.

⁷ See *Klabouch v Canada (Social Development)*, 2008 FCA 33.

⁸ See *Bungay v Canada (Attorney General)*, 2011 FCA 47.

– **The Appellant explained the lack of medical evidence by 2005**

[18] The Appellant says that his family doctor from 1990 until 2011 was Dr. Karalis. He wasn't satisfied with his care and changed family doctors. He saw Dr. Karantonis from around 2011 to 2015. Then Dr. Alkalaf became his family doctor around 2015.

[19] The Appellant says that he didn't see a psychiatrist until July 2011. He argues that his poor mental health was left untreated until 2011. He claimed that Dr. Karalis wouldn't listen to his concerns about his mental health symptoms. He said that Dr. Karalis wouldn't give him a prescription for mental health medication or offer any other kind of treatment. He didn't have any counselling. He says that he was first referred to psychiatry in 2011 by Dr. Karantonis.

[20] The Appellant's representative asked that I place significant weight on this psychiatry record by Dr. Soulios. I didn't do so because this record didn't speak to his health at the relevant time. It told me what his symptoms were like in 2011.

[21] I asked the Appellant if he made efforts to obtain his medical charting from Dr. Karalis. He said that he tried to get his records in 2020, but the receptionist told him that his records were thrown out. I asked him if he attempted to get medical evidence related to his leg injury, such as from a hospital or the rehabilitation program he said he attended. He told me he didn't think to do this.

– **The Appellant was laid off work in 2003 and looked for work after 2005**

[22] The Appellant says he was laid off work in August 2003. He says he had kept in touch with his employer, but wasn't called back to work.⁹ After recovering from his leg injury, he then looked for work in July or August 2005. He says he attended some interviews, but didn't get hired.

[23] The Appellant says that he last looked for work in 2013 or 2014. He says he looked for similar types of jobs that he did before. He looked in the newspaper and online. He had a couple interviews, but wasn't hired.

⁹ See GD2-51.

[24] This testimony doesn't support his case that he had a severe disability by the end of 2005 and continuously since. It suggests that he thought he could work.

– **What the medical evidence says about the Appellant's functional limitations**

[25] The Appellant must provide some medical evidence to support that his functional limitations affected his ability to work no later than December 31, 2005.¹⁰

[26] The appeal file doesn't contain any medical evidence authored before the end of 2005. The later medical evidence doesn't refer to the Appellant's health before the end of 2005. These are fatal problems for his appeal. The retrospective medical evidence doesn't support that he had a severe disability by the end of 2005.

– **There is no medical evidence to support disc herniations**

[27] The Minister argued that there was no medical evidence of **disc herniations** or a pain consult or other specialist assessment or treatment for back pain. Further, the Minister argues that the available charting records don't mention chronic pain symptoms.¹¹ I agree with the Minister. There is no medical evidence to support the presence of chronic back pain that caused functional limitations by the end of 2005.

[28] The medical evidence doesn't support that the Appellant had disc herniations, as the Appellant's representative claimed.¹² Further, at the hearing the Appellant didn't claim to have limitations from a back condition.

– **The Appellant's right leg**

[29] At the hearing, the Appellant stated that he had no ongoing limitations related to a right leg injury. He told me that his leg recovered after he completed rehabilitation. I didn't factor limitations from a leg injury into the disability analysis.

[30] The first reference to a 2004 leg injury is a subjective report from the Appellant, made in 2011. It isn't medical evidence confirming what happened or when it happened.

¹⁰ See *Warren v Canada (Attorney General)*, 2008 FCA 377; and *Canada (Attorney General) v Dean*, 2020 FC 206.

¹¹ See GD4-6.

¹² See GD2-291.

He had medical imaging in 2011 which showed healed right leg fractures. But this doesn't help to determine when the injury occurred.¹³

[31] Medical evidence from Dr. Karantonis supports that sometime between May 2011 and September 2013, the Appellant told him his right leg was painful.

Dr. Karantonis reported that this was from an "old injury," which doesn't help to substantiate that the injury occurred before the end of 2005. Dr. Karantonis noted that he never came back for follow-up treatment after he was seen in September 2013 for a stuffy nose.¹⁴

– The Appellant's mental health

[32] The problem with the Appellant's case is that it isn't clear when the Appellant's mental health conditions began and how severe his limitations were. There is a gap of at least six years between the first date of when he claims to be disabled and when he first had a psychiatric assessment.

[33] The first medical evidence that details **mental health conditions** is from July 2011. The Appellant saw Dr. Soulios. Dr. Soulios didn't mention a timeframe as to when his psychiatric symptoms began or the course of symptoms. Dr. Soulios noted that his sleep was broken. He presented as having major depressive disorder and a fear of heights. He was isolated and withdrawn, and had low energy and low motivation.¹⁵

[34] Having mental health symptoms in 2011 doesn't mean the Appellant had the same symptoms or limitations by the end of 2005. There is no medical evidence of his functional limitations before 2011. I can't draw a conclusion on the nature of his functional limitations without some supporting medical evidence.

[35] The appeal file contains medical records authored many years after 2005. These don't help to establish that he had a severe disability by the end of 2005. No doctor

¹³ See GD2-218 to 219.

¹⁴ See GD2-238.

¹⁵ See GD2-218 to 219.

referred to his earlier medical records before 2011. It doesn't appear that they had his prior records.

[36] There are handwritten medical records from 2011 to 2013.¹⁶ I couldn't read them. There doesn't appear to be any specialist referrals made (outside of the 2011 psychiatric assessment discussed earlier). There is no indication that the Appellant had other care providers, such as therapists.

[37] The medical evidence supports that Dr. Alkhalaf began treating the Appellant in June 2015. He had an annual physical that month. Dr. Alkhalaf noted that he had no stated depressive or anxious symptoms. He had normal affect. He had normal judgement, memory, speech, and thought pattern.¹⁷

[38] Over the following years, the Appellant saw Dr. Alkhalaf for various physical issues. This tells me that he was able to book appointments and attend to his medical needs. Despite possible agoraphobia concerns, he didn't claim that this prevented him from accessing medical care.

[39] Dr. Alkhalaf didn't record mental health symptoms until July 2019. It was then that he first raised the topic. This was four years after Dr. Alkhalaf began treating him. He also told Dr. Alkhalaf that he last worked in 2018. In January 2020, he told Dr. Alkhalaf that he was looking to start his own business. He was generally feeling "ok" with some bad days.¹⁸

[40] A medical report was completed by Dr. Alkhalaf in October 2020. She began treating the Appellant in July 2019. She wrote that he had had depression "for a long time" but she first saw him for this condition in July 2019.¹⁹

[41] The appeal file contains medical evidence by Dr. Phillips (psychiatrist). Dr. Phillips first saw the Appellant in April 2020 for an assessment for depression. The

¹⁶ See GD2-225 to 236.

¹⁷ See GD2-171 and 180.

¹⁸ See GD2-193 and 197.

¹⁹ See GD2-152 to 160 and 292 to 300.

Appellant told Dr. Phillips that he felt depressed since he broke his leg in 2004. Dr. Phillips accepted what the Appellant told him in 2020 about his date of onset of psychiatric symptoms without referring to any medical evidence during the relevant timeframe to back up this statement.²⁰

[42] The medical evidence doesn't support that the Appellant's functional limitations affected his ability to work by December 31, 2005. This means he cannot establish a severe disability by this time. The appeal cannot succeed.

[43] This decision doesn't address the Appellant's medical conditions and limitations now. Unless he shows that he had a severe disability by the end of 2005, his later work capacity is irrelevant.

[44] I don't need to consider the Appellant's age, education, work experience, or other factors.²¹ My reason for skipping this analysis is that there is a lack of medical evidence about the Appellant's claimed disabling conditions by the end of 2005.

Conclusion

[45] I find that the Appellant isn't eligible for a CPP disability pension because his disability wasn't severe. Because I have found that his disability wasn't severe, I didn't have to consider whether it was prolonged.

[46] This means the appeal is dismissed.

Selena Bateman
Member, General Division – Income Security Section

²⁰ See GD2-193, 279 to 287, and 390.

²¹ See *Villani v Canada (Attorney General)*, 2001 FCA 248.