



Citation: *SC v Minister of Employment and Social Development*, 2025 SST 471

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: S. C.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated March 24, 2025
(GP-24-1900)

Tribunal member: Kate Sellar

Decision date: **May 7, 2025**

File number: AD-25-278

Decision

[1] I'm refusing to give the Claimant (S. C.) leave (permission) to appeal. The appeal will not proceed. These are the reasons for my decision.

Overview

[2] The Claimant applied for a Canada Pension Plan (CPP) disability pension in July 2022. The Minister of Employment and Social Development (Minister) refused her application in March, 2023. The Claimant asked the Minister to reconsider in August, 2024. In October, 2024, the Minister refused the late reconsideration request. The Claimant appealed to this Tribunal.

[3] The General Division decided the following:

- The Claimant's request for reconsideration to the Minister was late.
- The Minister failed to act judicially when it refused to give the Claimant more time because it considered an irrelevant factor (namely whether there was extenuating circumstance that was unusual, unexpected, or beyond her control and relates to her medical condition).
- The Claimant could not have more time to ask for reconsideration because she didn't have a reasonable explanation for being late.

Issues

[4] The issues in this appeal are:

- a) Is there an arguable case that the General Division failed to provide the Claimant with a fair process at the hearing?
- b) Is there an arguable case that the General Division made any other error that would justify giving the Claimant permission to appeal?

- c) Does the application set out evidence that wasn't presented to the General Division?

I'm not giving the Claimant permission to appeal

[5] 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.¹

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

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

The Claimant hasn't raised an arguable case for a lack of fair process by the General Division.

[8] The Claimant says that the hearing was difficult because the General Division kept asking her why she was late. The Claimant says she feels like no one understands her.³

¹ See section 58.1(a) and (b) in the *Department of Employment and Social Development Act* (Act).

² See section 58.1(c) in the Act.

³ See AD1-5.

– Fairness in the Tribunal context

[9] What fairness requires will vary depending on the circumstances.⁴ At the heart of the question about fairness is whether, considering all the circumstances, the people impacted by the process had a meaningful opportunity to present their case fully and fairly.

[10] Part of the duty to act fairly is allowing people the right to be heard. The right to be heard is also about giving people the chance to make arguments on every fact or factor likely to affect the decision.⁵

– Allowing the Claimant the right to be heard at the hearing

[11] The Claimant hasn't raised an arguable case that the General Division failed to provide her with a fair process at her hearing. I understand that the Claimant struggled during the hearing to make her case. However, but there's no arguable case here that the General Division failed to give her a fair chance to make her arguments.

[12] I listened to the recording of the General Division decision. The General Division explained that the hearing wasn't about whether she is eligible for the disability pension, it was about her late request for reconsideration. The General Division invited the Claimant to ask questions if she had any. The General Division invited the Claimant to explain why she was late, and then asked her some follow up questions.

[13] Although the Claimant found the process difficult, I see no signs here that the General Division may have failed to give the Claimant a fair process. I heard no possible signs of suppressing or harming the Claimant's chance to make her case at the hearing.

⁴ See *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC).

⁵ The Federal Court explains this in a case called *Kouama v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 9008 (FC).

[14] At the hearing, the Claimant was able to provide lots of explanation about the delay, and the General Division discussed that explanation in its decision.⁶ There's no arguable case that the General Division failed to give the Claimant a fair process.

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

[15] The Claimant agrees about the facts and the law as the General Division explained them in the decision. The Claimant apologizes for the delay in requesting reconsideration and asks the Appeal Division for a different outcome. Ultimately, she wants to appeal the Minister's decision to refuse her application for the CPP disability pension.⁷

[16] The Claimant hasn't raised an arguable case for any error that would justify giving her permission to appeal. The Appeal Division doesn't have the ability to give permission to appeal based only on compassionate grounds or in recognition of the Claimant's good faith apology.

[17] I can only grant permission to appeal based on the reasons I outlined above at paragraphs 5 and 6. The Claimant hasn't raised an arguable case that the General Division made any error in its analysis that would justify giving her permission to appeal.

There's no new evidence.

[18] The Claimant hasn't provided any evidence that wasn't already presented to the General Division. Accordingly, new evidence also cannot form the basis for permission to appeal.

[19] I've reviewed the record.⁸ I'm satisfied that the General Division didn't overlook or misunderstand any important evidence that could change the outcome for the Claimant.

⁶ See paragraphs 27 to 30 in the General Division decision, discussing the Claimant's testimony at the hearing about why she was late.

⁷ See AD1-4 and 5.

⁸ For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

Final Note

[20] It seems to me that the Claimant was asking about re-applying for the CPP disability pension during the hearing.⁹ She said she was receiving other benefits, and only working very few hours to avoid getting depressed. Nothing in this decision stops the Claimant from making a new application the CPP disability pension. If the Minister makes a decision she disagrees with, she can follow the steps outlined in the Minister's letters.

Conclusion

[21] I've refused the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division

⁹ See about 19:00 in the recording of the General Division hearing.