



Citation: *SC v Minister of Employment and Social Development*, 2025 SST 472

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: S. C.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated October 3, 2024 (issued by
Service Canada)

Tribunal member: Selena Bateman

Type of hearing: Teleconference

Hearing date: March 18, 2025

Hearing participant: Appellant

Decision date: March 24, 2025

File number: GP-24-1900

Decision

[1] The appeal is dismissed.

[2] The Appellant, S. C., can't have more time to ask for reconsideration of the decision about her application for a Canada Pension Plan (CPP) disability pension.

[3] This decision explains why I am dismissing the appeal.

Overview

[4] The Appellant applied for a CPP disability pension in July 2022. The Minister of Employment and Social Development (Minister) denied her application on March 29, 2023.

[5] The Appellant asked the Minister to reconsider its decision on August 5, 2024. On October 3, 2024, the Minister refused the late reconsideration request. The Appellant appealed to the Social Security Tribunal.

[6] This appeal isn't about whether the Appellant should get a CPP disability pension. It is about whether her request for reconsideration was late. If it was late, then it is also about whether the Minister should have given her more time to ask for reconsideration.

What I have to decide

[7] First, I must decide if the Appellant's request for reconsideration was late.

[8] If the Appellant's request was late, then I must decide whether the Minister acted judicially when it refused to give her more time to ask for reconsideration.

[9] If I decide that the Minister didn't act judicially, then I must decide whether the Appellant should have more time to ask for reconsideration.

Reasons for my decision

[10] The Appellant's request for reconsideration was late. The Minister didn't act judicially. The Appellant shouldn't have more time to ask for reconsideration.

The Appellant's request for reconsideration was late

[11] If a person disagrees with the Minister's decision to deny them a CPP disability pension, they can ask the Minister to reconsider. They must ask within 90 days after they were notified of the decision in writing. If they wait more than 90 days after they were notified before asking for reconsideration, their request is late.¹

[12] The Appellant's request for reconsideration was late.

[13] The Minister's initial decision was dated March 29, 2023.² The Appellant says that she received this letter in March 2023.

[14] The Appellant had 90 days to ask for reconsideration. She didn't ask for reconsideration until August 5, 2024. This is more than one year past the 90-day deadline.

The Minister didn't act judicially

[15] The Minister didn't act judicially when it refused to give the Appellant more time to ask for reconsideration.

What the Minister must consider when a request for reconsideration is late

[16] If a request for reconsideration is late, the Minister can give a person more time to ask. To do this, the Minister must be satisfied that:

- there is a reasonable explanation for why the request was late

¹ See section 81(1) of the *Canada Pension Plan* and section 74.2 of the *Canada Pension Plan Regulations*.

² See GD2-46 to 48.

- the person showed a continuing intention to ask for reconsideration³

If the request for reconsideration is more than 365 days late, the Minister must also be satisfied that:

- the request for reconsideration has a reasonable chance of success
- allowing the request would not prejudice (unfairly disadvantage) the Minister⁴

[17] The Appellant's request was more than 365 days late. So, the Minister had to be satisfied that all four of these factors were met.⁵

The Minister must act judicially when it considers these factors

[18] The Minister's decision to give a person more time is discretionary. This means the Minister uses its own judgment to decide whether to do something.⁶ But the Minister must act judicially when it decides.

[19] This means the Minister must not do any of the following:

- act in bad faith
- act for an improper purpose or motive (the wrong reason)
- consider an irrelevant factor
- ignore a relevant factor
- discriminate against the Appellant⁷

³ See s. 81(1) of the *Canada Pension Plan* and s.74.1(3) *Canada Pension Plan Regulations*.

⁴ See section 74.1(4) of the *Canada Pension Plan Regulations*.

⁵ See *Lazure v Attorney General of Canada*, 2018 FC 467.

⁶ See *Canada (Attorney General) v Uppal*, 2008 FCA 388.

⁷ See *Canada (Attorney General) v Purcell*, [1996] 1 FC 644.

The Minister didn't act judicially

[20] The Minister didn't act judicially because it considered an irrelevant factor. The Minister applied the wrong test when it determined that the Appellant didn't have a reasonable explanation for being late.

[21] The Minister didn't accept the Appellant's explanation as reasonable because it wasn't an "extenuating circumstance" that was unusual, unexpected, or beyond her control and relates to her medical condition.⁸

[22] The law doesn't require that the Appellant meet this test. The law only says that her explanation must be reasonable. The Minister's test was too strict and wasn't based on the law. This means that the Minister considered an irrelevant factor.

[23] Next, I have to decide whether the Appellant should have more time to ask for a reconsideration.

The Appellant should not have more time to ask for reconsideration

[24] When I decide if the Appellant should have more time to ask for reconsideration, I must consider the same factors that the Minister had to consider. She must show on a balance of probabilities that:

- she has a reasonable explanation for being late
- she demonstrated that she had a continuing intention to ask for reconsideration
- her request for reconsideration has a reasonable chance of success
- allowing her more time would not prejudice the Minister

[25] The Appellant must meet **all four** factors.⁹

⁸ See GD2-12.

⁹ See *Lazure v Attorney General of Canada*, 2018 FC 467.

The Appellant doesn't have a reasonable explanation for being late

[26] The Appellant doesn't have a reasonable explanation for being late. Because of this, I don't need to consider the other three factors.

[27] The Appellant said that she didn't read the denial letter thoroughly.¹⁰ She says she doesn't know why she ignored the letter. Secondly, she said that she didn't know that she could ask for a reconsideration and that there was a time limit. She said that she learned that she could ask for a reconsideration after re-reading the letter. At that point, she asked the Minister for a reconsideration.

[28] I decided that this explanation wasn't reasonable.

[29] The Appellant didn't provide a reasonable explanation for why she stopped reading the letter after the first page. The initial decision letter wasn't lengthy or overly complicated. It was just over two pages long. It included a two-page attachment on how to request a reconsideration.¹¹ In these four pages it is mentioned twice that the reconsideration request must be made in writing within 90 days. The letter clearly laid out the instructions on what a reconsideration request means, the options to make the request, and ways to contact Service Canada.

[30] I also considered the Appellant's personal circumstances and medical conditions in deciding whether her explanation was reasonable. The medical evidence doesn't support that she has medical conditions that impact her cognitive functioning. For instance, the medical report doesn't list cognitive limitations. Further, she doesn't claim to have cognitive limitations.¹² She said that she understood the contents of the letter. She didn't require help from others to understand English.

¹⁰ See GD6-1.

¹¹ See GD2-46 to 50.

¹² See the medical report in GD2-85 to 90. Also see GD3 and GD6.

Conclusion

[31] I find that the Appellant can't have more time to ask for reconsideration of the July 23, 2022 application for CPP disability pension.

This means the appeal is dismissed.

Selena Bateman

Member, General Division – Income Security Section