



Citation: *DH v Minister of Employment and Social Development*, 2025 SST 813

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: D. H.
Representative: Mike Tabar
Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated December 19, 2023 (issued
by Service Canada)

Tribunal member: Dawn Kershaw
Type of hearing: In writing
Decision date: August 5, 2025
File number: GP-24-431

Decision

[1] The appeal is dismissed.

[2] The Appellant, D. H., 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 48 years old. He was an equipment operator for 10 years until 2022 when he hurt his knee and stopped working.

[4] The Appellant applied for a CPP disability pension on November 4, 2022. 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 he can't work because he can't walk or stand for long. He also can't climb.

[6] The Minister says improvement can be expected because knee surgery was planned.¹

[7] The Minister also says the Appellant may have some limitations because of his knee injury, but he can do a sitting job or part-time work or can retrain.²

What the Appellant must prove

[8] For the Appellant to succeed, he must prove he has a disability that was severe and prolonged by the hearing date. In other words, no later than July 30, 2025.³

¹ See Minister's submissions at GD7.

² See Minister's submissions at GD7.

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 GD2-67. In this

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

[10] A disability is **severe** if it makes an appellant incapable regularly of pursuing any substantially gainful occupation.⁴

[11] This means I have to look at all of the Appellant’s medical conditions together to see what effect they have on his ability to work. I also have to look at his background (including his age, level of education, and past work and life experience). This is so I can get a realistic or “real world” picture of whether his disability is severe. If the Appellant is capable regularly of doing some kind of work that he could earn a living from, then he isn’t entitled to a disability pension.

[12] A disability is **prolonged** if it is likely to be long continued and of indefinite duration, or is likely to result in death.⁵

[13] This means the Appellant’s disability can’t have an expected recovery date. The disability must be expected to keep the Appellant out of the workforce for a long time.

[14] The Appellant has to prove he has a severe **and** prolonged disability. He has to prove this on a balance of probabilities. This means he has to show it is more likely than not that he is disabled.

Matters I have to consider first

The Appellant chose a written hearing

[15] The Appellant chose a written hearing.⁶ The Tribunal followed the Appellant’s wishes for the form of hearing.

case, the Appellant’s coverage period ends after the hearing date, so I have to decide whether he was disabled by the hearing date.

⁴ Section 42(2)(a) of the *Canada Pension Plan* gives this definition of severe 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.

⁵ Section 42(2)(a) of the *Canada Pension Plan* gives this definition of prolonged disability.

⁶ See GD8-2.

Reasons for my decision

[16] I find that the Appellant hasn't proven he had a severe and prolonged disability by the hearing date.

The Appellant hasn't proven he has a prolonged disability

[17] The Appellant hasn't proven that his disability is prolonged.

[18] I recognize that the Appellant stopped working because of pain and instability in his knee.

[19] The medical evidence supports that because of his knee pain and instability the Appellant had limitations that impacted his ability to do his job as an equipment operator.

[20] The Appellant says that his medical conditions have resulted in functional limitations that affect his ability to work. He says he felt he could no longer work as of May 15, 2022, when he dislocated his knee and tore the meniscus.⁷

[21] The Appellant says he can't walk or stand for long. He says he can't climb into a vehicle safely or climb stairs or a ladder.⁸

[22] The Appellant also says he has poor ability to kneel or squat and get back up, bend down, and pick up two bags of groceries and walk a block. He says he only has a fair ability to sit for more than 20 minutes, drive, pull or push a heavy door, or dress himself.⁹

[23] The medical evidence supports what the Appellant says. The Appellant injured his knee in May 2022. His pain worsened with activity. He had trouble with stairs, stand up from sitting, and trouble getting in and out of a car.¹⁰

⁷ See CPP application at GD2-61.

⁸ See CPP application at GD2-62.

⁹ See CPP application at GD2-62.

¹⁰ See unknown doctor's May 31, 2022, report at GD2-102.

[24] An MRI showed that the Appellant had a complete tear of his anterior cruciate ligament (one of the knee ligaments that connects the thigh bone to the shin bone).¹¹

[25] The most recent medical note in the file is the CPP medical report, signed by the orthopaedic surgeon, Dr. Chant, on November 15, 2022. He wrote that the Appellant had functional impairments of knee pain and instability. He said this would be the case until the Appellant had surgery.¹²

[26] As of November 2022, the Appellant could not have surgery because his BMI (body mass index) was above the anaesthesia limit. He was to be seen again the next month to see if he had lost enough weight to have surgery.¹³

[27] There isn't any medical evidence since November 2022. This is significant because it is more than two-and-a-half years later, and there is no medical update. I don't know if he saw the orthopaedic surgeon again. I also don't know if the Appellant had surgery or other treatment.

[28] It is also noteworthy that the Appellant's family doctor, Dr. Poole, wrote in January 2025 that she didn't have "the original forms" **or any specific information that would be helpful**.¹⁴ Dr. Poole wrote this response despite the Appellant apparently having talked to her about his "areas of complaint", but he wasn't referred for any tests or assessments.¹⁵

[29] The Appellant has to prove that it is more likely than not that he has a severe **and** prolonged disability.

[30] The Appellant hasn't proven that it is more likely than not that his condition is prolonged because there is no medical evidence since more than two-and-a-half years

¹¹ See unknown doctor's November 8, 2022, report at GD2-104.

¹² See CPP medical report, signed by Dr. Chris Chant on November 15, 2022, at GD2-93.

¹³ See unknown doctor's November 10, 2022, report at GD2-104.

¹⁴ See Dr. Cassie Poole's January 22, 2025, note at GD6-3.

¹⁵ See Appellant's representative's letter at GD6-2.

ago when surgery was still a possibility if the Appellant lost weight. This treatment could well impact his disability.

Conclusion

[31] I find that the Appellant isn't eligible for a CPP disability pension because his disability wasn't prolonged.

[32] This means the appeal is dismissed.

Dawn Kershaw

Member, General Division – Income Security Section