



Citation: *CF v Minister of Employment and Social Development*, 2025 SST 957

## **Social Security Tribunal of Canada General Division – Income Security Section**

# **Decision**

**Appellant:** C. F.  
**Representative:** David Edwards  
**Respondent:** Minister of Employment and Social Development

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

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**Tribunal member:** James Beaton  
**Type of hearing:** Videoconference  
**Hearing date:** September 4, 2025  
**Hearing participants:** Appellant  
Appellant's representative  
**Decision date:** September 8, 2025  
**File number:** GP-24-1320

## Decision

[1] The appeal is dismissed.

[2] The Appellant, C. F., 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 42 years old. On July 31, 2018, she was in a car accident. She sustained a traumatic brain injury and required surgery on her left femur and her right talus (a bone in the ankle). The accident left her with pain in her right ankle, her back, and her neck. She was taking Cymbalta to treat anxiety at the time of the accident.<sup>1</sup> Before the accident, she was an elementary school teacher. She hasn't worked since the accident.

[4] The Appellant applied for a CPP disability pension on March 30, 2023. The Minister of Employment and Social Development refused her application. The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

[5] Both the Minister and the Appellant (who was represented by a lawyer) made detailed submissions (arguments) to support their positions.<sup>2</sup> They mainly addressed the issue of which evidence I should prefer. Indeed, the appeal file is thousands of pages. Some of the evidence supports that the Appellant is disabled. Some of it does not. I reviewed the evidence, focusing on what the parties referenced in their submissions.

[6] Ultimately, the evidence that I weighed most heavily led me to conclude that the Appellant is not disabled as defined by the *Canada Pension Plan*.

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<sup>1</sup> See GD1-32.

<sup>2</sup> The Minister's submissions are at GD6 and GD12. The Appellant's written submissions are at GD1-9 and 10, and GD11. Her representative also made oral submissions at the hearing.

## What the Appellant must prove

[7] To succeed, the Appellant must prove she has a disability that was severe and prolonged by December 31, 2021, and continuously since then. This date is based on her contributions to the CPP.<sup>3</sup>

[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.<sup>4</sup>

[10] This means I must look at all of the Appellant’s medical conditions together to see how they affect her ability to work. I must also look at her background (including her age, education, language abilities, and experience) to get a realistic or “real world” picture of whether her disability is severe. If she is capable regularly of doing some kind of work that she could earn a living from, then she isn’t entitled to a disability pension.

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

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

[13] The Appellant must prove she has a severe and prolonged disability. She must prove this on a balance of probabilities. This means she must show it is more likely than not that she is disabled.

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<sup>3</sup> 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 at GD2-6.

<sup>4</sup> 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 get from a disability pension.

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

## **Matters I have to consider first**

### **The parties filed documents after the deadline**

[14] Both parties filed documents after the deadline. I refused some of those documents (GD7, GD8, and GD9) and accepted one of them (GD10). I gave my reasons in letters dated June 9, June 13, and July 7, 2025. I allowed the Minister to respond to GD10, which was filed by the Appellant. The Minister responded (GD12).

### **Reasons for my decision**

[15] I find that the Appellant hasn't proven she had a severe and prolonged disability by December 31, 2021, and continuously since then.

### **Was the Appellant's disability severe?**

[16] The Appellant's disability wasn't severe by December 31, 2021. I reached this finding by considering several factors. I explain these factors below.

#### **– The Appellant's functional limitations affected her ability to work**

[17] The Appellant bases her appeal on a traumatic brain injury, osteoarthritis, bone spurs, and injuries to her right femur, right ankle, sternum, ribs, and neck.<sup>6</sup>

[18] But I can't focus on the Appellant's diagnoses.<sup>7</sup> Instead, I must focus on whether she has functional limitations that got in the way of her earning a living by December 31, 2021.<sup>8</sup> When I do this, I must look at **all** of her medical conditions (not just the main one) and think about how they affected her ability to work.<sup>9</sup>

[19] I find that the Appellant had functional limitations from the car accident on July 31, 2018.

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<sup>6</sup> See the Appellant's application at GD2-25 to 41.

<sup>7</sup> See *Ferreira v Canada (Attorney General)*, 2013 FCA 81.

<sup>8</sup> See *Klabouch v Canada (Attorney General)*, 2008 FCA 33.

<sup>9</sup> See *Bungay v Canada (Attorney General)*, 2011 FCA 47.

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

[20] The Appellant says her medical conditions have resulted in functional limitations that have affected her ability to work since the accident. What she says about her limitations can be found in her application (from March 2023) and in her testimony (she read from a prepared statement at the hearing).<sup>10</sup> This is what she says:

- She can't **stand** or **sit** for more than 10 minutes. She can't **lift** heavy objects. She has trouble **reaching** overhead, taking **stairs**, and **walking** on uneven ground.
- She moved to a bungalow two years ago because it is easier to navigate than a two-storey house. Also, the bungalow is closer to family members who can (and do) provide assistance with caring for her young children.
- She only showers once per week because it requires standing and **balance**. She thinks her balance is poor.
- She can't **stare at a computer screen** for long.
- She can't **focus** for more than 10 minutes on simple tasks, on a good day.
- Her **memory** is poor. She relies on "tools" to help her remember things.
- She has to re-read things to **process information**.
- She struggles to **learn new things, understand conversations, and articulate herself**, especially when she is tired or stressed.
- Her ability to **cope with change** is poor.
- She finds **decision-making** difficult.

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<sup>10</sup> The Appellant's application is at GD2-25 to 41.

- Crowds make her nervous because she doubts her “ability to react to unanticipated events or emergency situations.”<sup>11</sup>

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

[21] The Appellant must provide some medical evidence to support that her functional limitations affected her ability to work by December 31, 2021.<sup>12</sup>

[22] As I mentioned earlier, there is a considerable volume of medical evidence in the appeal file. It would be impractical and unhelpful to summarize all of it here. Some of it supports the Appellant’s position while some of it does not. Both parties acknowledged this and argued why I should prefer certain pieces of evidence over others.

[23] Out of the evidence referenced by one or both of the parties, I decided to give the most weight to a series of insurer examination reports from May and June 2021.<sup>13</sup> This is because these reports are:

- **comprehensive**—they represent expertise in neuropsychology (Dr. Ladowsky-Brooks), psychiatry (Dr. Sivasubramanian), occupational therapy (Ms. Hisey), neurology (Dr. Moddel), and orthopedics (Dr. Auguste)
- **reliable**—each examiner explained the basis for their findings (a combination of direct observation, interviews, testing, and document review)
- **the most timely**—they are dated after the Appellant’s right ankle surgery in March 2021 (which lessened her pain and improved her range of motion) and close to December 2021<sup>14</sup>

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<sup>11</sup> This quote is taken from GD2-34.

<sup>12</sup> See *Warren v Canada (Attorney General)*, 2008 FCA 377; and *Canada (Attorney General) v Dean*, 2020 FC 206.

<sup>13</sup> See GD 1-143 to 276. The reports are dated July 2021, but the assessments on which they are based took place in May and June 2021.

<sup>14</sup> The operative report for the Appellant’s ankle surgery on March 5, 2021, is at GD2-508 and 509. A follow-up report dated May 25, 2021, is at GD2-514. The Appellant’s ankle pain increased again toward the end of 2024 (GD5-1351).

[24] The Appellant's representative urged me to reject the report of Dr. Sivasubramanian as erroneous and an "outlier" that is inconsistent with other reports, like those of Dr. Rockman (a neuropsychologist who assessed the Appellant in October 2020)<sup>15</sup> and Dr. Quinn (a psychiatrist who assessed her in December 2020).<sup>16</sup> He noted that Dr. Sivasubramanian's assessment lasted only 50 minutes whereas Ms. Hisey's occupational therapy assessment, for example, lasted nearly 3 hours.

[25] I don't find these arguments convincing, for two reasons.

[26] First, Dr. Sivasubramanian's assessment took place months after Dr. Rockman and Dr. Quinn's assessments. It is entirely possible that the Appellant's health evolved during those months, leading Dr. Sivasubramanian to reach different conclusions than the earlier assessors. That is one reason why I prefer the reports dated closer to December 2021, like Dr. Sivasubramanian's.

[27] Second, I see no indication in Dr. Sivasubramanian's report that he was less than thorough in his assessment. A 50-minute assessment does not strike me as unduly short. The Appellant didn't provide any evidence from another psychiatrist to support that a psychiatric assessment must be longer than 50 minutes to be reliable. She didn't say Dr. Sivasubramanian's assessment felt rushed.

– **Why I didn't rely on some evidence**

[28] I have already explained why I relied on the insurer examination reports. I will now address some of the specific pieces of evidence that I did not rely on.

[29] The Appellant's representative argued that I should rely on a series of **catastrophic impairment evaluations** (including Dr. Rockman's and Dr. Quinn's) which were completed between July and December 2020.<sup>17</sup> I didn't rely on these evaluations because they are further from December 2021 than the insurer examination reports.

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<sup>15</sup> Dr. Rockman's report starts at GD1-24.

<sup>16</sup> Dr. Quinn's report starts at GD1-52.

<sup>17</sup> See GD1-11 to 118.

[30] The Appellant's representative also argued that I should rely on reports from Ms. Bogensberger and Ms. Antao, both occupational therapists.

[31] I didn't rely on **Ms. Bogensberger's reports** because they are from August 2020 (before the Appellant's ankle surgery),<sup>18</sup> February 2023,<sup>19</sup> and June 2024<sup>20</sup> (well after December 2021).

[32] I didn't rely on **Ms. Antao's reports** for these reasons:

- I didn't rely on her April 2021 report because it was based on an assessment from March 30, when the Appellant was still in the early stages of her recovery from ankle surgery that took place on March 5.<sup>21</sup>
- I didn't rely on her June 2021 report because she only assessed the Appellant virtually.<sup>22</sup> By contrast, Ms. Hisey's occupational therapy report from around the same time was based on an in-person assessment in the Appellant's home. So, I believe that Ms. Hisey was in a better position than Ms. Antao to observe the Appellant's daily functioning.
- I didn't rely on her March 2022 report because it is unclear how often or how recently she assessed the Appellant. The report simply says the Appellant "met virtually" with Ms. Antao between June 2021 and March 2022.<sup>23</sup> This could have been before or after December 2021, or both.

#### – The evidence I relied on

[33] Having explained why I prefer some evidence over other evidence, I will now consider what the evidence I relied on says.

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<sup>18</sup> See GD5-4755 to 4766.

<sup>19</sup> See GD5-2874 to 2909.

<sup>20</sup> See GD1-277 and 278.

<sup>21</sup> See GD5-4913 to 4931.

<sup>22</sup> See GD5-4932 to 4939.

<sup>23</sup> See GD5-4940 to 4947.



[34] **Dr. Ladowsky-Brooks (a neuropsychologist)** evaluated the Appellant's cognitive abilities. He concluded that she would likely struggle to cope in a classroom setting as a teacher. Objectively, though, his report revealed few limitations. She achieved a perfect score on a cognitive screening test.<sup>24</sup> Commenting on other tests, Dr. Ladowsky-Brooks wrote (my emphasis):<sup>25</sup>

while her cognitive abilities would be described as mainly falling in the average to high average range, there were **subtle** memory difficulties in measures of recall, such as [learning] after one exposure and incidental learning, as well as in retention over delay. As well, there was a **mild** problem in copying of a figure that suggested a lack of attention to detail.

[35] The Appellant's representative highlighted that Dr. Ladowsky-Brooks considered the Appellant's subjective description of her symptoms to be credible. It is true that Dr. Ladowsky-Brooks remarked, "her complaints of cognitive impairment are considered to be credible."<sup>26</sup> This is a general statement. Dr. Ladowsky-Brooks' conclusion still only endorses mild and quite specific limitations.

[36] **Dr. Sivasubramanian (a psychiatrist)** evaluated the Appellant's mental health. He wrote that the Appellant independently managed her medications and finances, socialized regularly, and continued to read for leisure. She didn't complain of significant insomnia. She was afraid to be a passenger in a vehicle, but she was able to drive on her own. He observed no word-finding difficulties or trouble maintaining a conversation. He concluded that she had mild anxiety and very mild depression, resulting in mild impairments in focus and task completion, but no deficit in handling interpersonal relationships. Although she described being somewhat irritable, it did not warrant a clinical diagnosis.<sup>27</sup>

[37] **Ms. Hisey (an occupational therapist)** considered the Appellant's capacity for daily tasks. The Appellant demonstrated "functional strength" and "functional range of motion" except in her right ankle. She sat for 30 minutes at a time (2.5 hours total over

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<sup>24</sup> See the assessment from May 31, 2021, at GD1-154 to 174 and 255 to 276.

<sup>25</sup> See GD1-173.

<sup>26</sup> See GD1-173.

<sup>27</sup> See the assessment from June 5, 2021, at GD1-236 to 254.

the course of the evaluation) and walked (with a slight limp but no mobility aids) for 22 minutes at a time. She reported being able to stand for 30 minutes at a time. She could balance on her left foot but not her right. She reported being irritable and doing fewer things in person with friends. She told Ms. Hisey that her husband does 90% of the housework now. The report doesn't specify what percentage of the housework he did before the accident, though.<sup>28</sup>

[38] **Dr. Moddel (a neurologist)** evaluated the Appellant's nervous system as a potential contributor to pain and dysfunction. He said: "When examining her today, the only definite neurological finding is involvement of the lateral plantar nerve [in the right foot]. The headaches are tension and vascular in nature and there may be a component of medication rebound. The neck, shoulder, and back pain are muscular in nature."<sup>29</sup>

[39] Although it is not stated in Dr. Moddel's report or even in the Appellant's own application, the Appellant told Dr. Ladowsky-Brooks that computer use brings on headaches.<sup>30</sup>

[40] **Dr. Auguste (a specialist in orthopedics)** evaluated the Appellant's musculoskeletal system. She observed that the Appellant walked with a slight limp but did not need a mobility aid. The range of motion in her right foot was limited. She had pain at the end of her range of motion in her cervical (neck) and lumbar (low back) spine.<sup>31</sup>

[41] In addition to these reports, I give weight to a clinical note from a family doctor dated March 5, 2022.<sup>32</sup> This is the first piece of medical evidence after 2021 that either of the parties referred to. According to that note, the Appellant had been feeling "very low and hopeless" for the past month. She was unmotivated and not coping well. The doctor recommended decreasing the Appellant's dose of Cymbalta and adding another medication. This supports that the Appellant's mental health declined after December

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<sup>28</sup> See the assessment from June 10, 2021, at GD1-194 to 235.

<sup>29</sup> See the assessment from June 15, 2021, at GD1-143 to 153.

<sup>30</sup> See GD1-160.

<sup>31</sup> See the assessment from June 25, 2021, at GD1-175 to 193.

<sup>32</sup> See GD2-1077.

2021. Before that, it was generally managed with Cymbalta, which she had taken for about a decade.<sup>33</sup>

– **Summarizing the Appellant’s functional limitations**

[42] In summary, the medical evidence supports that the Appellant’s functional limitations, as of December 31, 2021, were mainly physical:

- no more than 30 minutes of sitting at a time (she could sit longer with breaks)
- no more than 30 minutes of standing at a time
- no more than 20 minutes of walking at a time
- no walking on uneven surfaces (including stairs)
- no heavy lifting
- no reaching overhead

[43] The Appellant had mild difficulty remembering things, focusing, and completing tasks. She was somewhat irritable. Computer use caused headaches.

[44] The medical evidence supports that the Appellant’s limitations impacted her ability to work as a teacher. For example, she could not stand at the front of a classroom for a full workday.

[45] I now have to decide whether the Appellant can regularly do other types of work. To be severe, the Appellant’s functional limitations must prevent her from earning a living at any type of work, not just her usual job.<sup>34</sup>

– **The Appellant can work in the real world**

[46] When I am deciding whether the Appellant can work, I can’t just look at her medical conditions and how they affect what she can do. I must also consider factors such as her:

- age

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<sup>33</sup> See GD1-32.

<sup>34</sup> See *Klabouch v Canada (Attorney General)*, 2008 FCA 33.

- level of education
- language abilities
- work and life experience

[47] These factors help me decide whether the Appellant can work in the real world—in other words, whether it is realistic to say she can work.<sup>35</sup>

[48] I find that the Appellant was still able to work as of December 31, 2021. All of her personal characteristics are positive. She is young (38 at the end of 2021) and university-educated. She is proficient in both of Canada's official languages. She has experience working as a teacher for nearly a decade.<sup>36</sup>

[49] The Appellant's functional limitations were mainly physical and would not keep her from doing a sedentary job. She had only mild difficulty remembering things, focusing, and completing tasks. She was irritable but still able to maintain interpersonal relationships. So, she could behave professionally in a work setting. Computer use caused headaches. At the same time, she reported that she still uses a computer.<sup>37</sup> So, she could do a job that involved some computer use.

– **The Appellant didn't try to find and keep a suitable job**

[50] If the Appellant can work in the real world, she must show that she tried to find and keep a suitable job. She must also show that her efforts weren't successful because of her medical conditions.<sup>38</sup> Finding and keeping a suitable job includes retraining or looking for a job that she can do with her functional limitations.<sup>39</sup>

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<sup>35</sup> See *Villani v Canada (Attorney General)*, 2001 FCA 248.

<sup>36</sup> See GD2-40 and 41. The Appellant testified that French is her second language. She is proficient enough to teach French immersion at the elementary-school level.

<sup>37</sup> The insurer examination reports from 2021 don't discuss the Appellant's current computer use. A neuropsychological assessment report from October 19 and 20, 2020, mentions that she still uses a computer (GD1-34). While I haven't relied on this report for its medical conclusions, I accept the Appellant's statement about her computer use since there is no later evidence to contradict it.

<sup>38</sup> See *Inclima v Canada (Attorney General)*, 2003 FCA 117.

<sup>39</sup> See *Janzen v Canada (Attorney General)*, 2008 FCA 150.

[51] The Appellant hasn't tried to work since the accident. However, she enrolled in two courses: one in 2020 and another in March or April 2021.<sup>40</sup> I asked her for more information about these courses.

[52] The first course was in "Canadian Native Studies." Her occupational therapist at the time encouraged her to enroll. The Appellant hoped that she could incorporate the subject matter into her role as a teacher. Course activities consisted of watching videos, reading materials, and doing assignments, all online. For the most part, the course was self-paced. The Appellant dropped the course before completing the first module.

[53] The second course was online, too, but not self-paced. It was a professional development course for teachers.<sup>41</sup> She enrolled on her own initiative, again with the hope that it would be useful in her role as a teacher. She dropped the course within the first week.

[54] I asked the Appellant why she was unable to complete these courses. She testified that, because of brain fog, she just "couldn't do it." More specifically, she could not apply the information that she learned to her assignments.

[55] This is similar to what the Appellant told Dr. Ladowsky-Brooks (that she "had trouble reading and using the information to respond").<sup>42</sup> Yet Dr. Ladowsky-Brooks specifically tested her ability to retain information from what she read, and the results were, at worst, "adequate" or "in the low average range."<sup>43</sup> While Dr. Ladowsky-Brooks found that she could not do a job comparable to teaching, he added that she was not disabled from all work.<sup>44</sup>

[56] The fact that the Appellant was unable to complete two university-level courses is no doubt frustrating for her considering that she completed an entire university degree before her accident. But it doesn't show that she is disabled from all work. She already

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<sup>40</sup> See GD1-151.

<sup>41</sup> See GD1-217.

<sup>42</sup> See GD1-260.

<sup>43</sup> See GD1-271.

<sup>44</sup> See GD1-273 and 274.

has the education necessary to do a job that doesn't require retraining or the same cognitive abilities as teaching. She hasn't tried to do such a job.

[57] For these reasons, I can't find that the Appellant had a severe disability by December 31, 2021.

## **Conclusion**

[58] I find that the Appellant isn't eligible for a CPP disability pension because her disability wasn't severe by December 31, 2021. Because I found that her disability wasn't severe, I didn't have to consider whether it was prolonged.

[59] This means the appeal is dismissed.

James Beaton

Member, General Division – Income Security Section