



Citation: *KM v Minister of Employment and Social Development*, 2025 SST 1288

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

Decision

Appellant: K. M.
Representative: Allison Schmidt
Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated April 2, 2024 (issued by
Service Canada)

Tribunal member: Virginia Saunders
Type of hearing: Teleconference
Hearing date: November 19, 2025
Hearing participants: Appellant
Appellant's representative
Decision date: December 8, 2025
File number: GP-24-1925

Decision

[1] The appeal is dismissed.

[2] The Appellant, K. M., 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 43 years old. She was diagnosed with schizophrenia when she was 19. Taking medication helped her for many years. She was able to work and go to school. She became a registered practical nurse (RPN) and worked in this field from 2008 to 2014.

[4] In September 2014, the Appellant became stressed and anxious over some events in her life. She went on medical leave. She tried going back to her old job twice—in December 2014 and July 2017—but she didn't last long. She says she couldn't do the job because she made mistakes and couldn't focus. She hasn't tried to work anywhere else.

[5] There have been periods when the Appellant stopped taking her medication. As a result, she has ended up in hospital several times. After her medication was started again, she stabilized and was discharged.

[6] The Appellant applied for a CPP disability pension in November 2022. This is her fourth application. The Minister of Employment and Social Development (Minister) refused her first three applications, and refused this one as well. The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

[7] The Appellant says that, even when she takes medication, she is challenged by her symptoms. She says there has never been a time since 2014 when she has been capable regularly of working.

[8] The Minister acknowledges that the Appellant may not be able to work as an RPN but says she could do a job that is suited to her limitations.

What the Appellant must prove

[9] For the Appellant to succeed, she must prove she has a disability that was severe and prolonged by December 31, 2016. This date is based on her CPP contributions.¹ She must also prove that she continues to be disabled.²

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

[11] A disability is **severe** if it makes an appellant incapable regularly of pursuing any substantially gainful occupation.³

[12] This means I must look at all of the Appellant’s medical conditions together to see what effect they have on her ability to work. I must also look at her background (including her age, level of education, language abilities, and work and life experience). This is so I can get a realistic or “real world” picture of whether her disability is severe. If the Appellant 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.

[13] A disability is **prolonged** if it is likely to be long continued and of indefinite duration, or is likely to result in death.⁴

[14] 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.

¹ 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 GD2-80.

² See *Canada (Attorney General) v Angell*, 2020 FC 1093, and *Brennan v Canada (Attorney General)*, 2011 FCA 318.

³ 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.

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

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

Reasons for my decision

[16] I find that the Appellant hasn't proven she had a severe and prolonged disability by December 31, 2016, and continuously since then.

The Appellant's disability wasn't continuously severe

[17] The Appellant's disability wasn't continuously severe after December 31, 2016. I reached this finding by considering several factors. I explain these factors below.

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

[18] The Appellant has:

- schizophrenia
- borderline personality disorder features
- PTSD (post-traumatic stress disorder) features
- mild to moderate depression⁵

[19] But I don't focus on the Appellant's diagnoses.⁶ Instead, I must focus on whether she has functional limitations that got in the way of her earning a living.⁷ When I do this, I have to look at **all** of her medical conditions (not just the main one) and think about how they affected her ability to work by December 31, 2016, and continuously after that.⁸

[20] I find that the Appellant had functional limitations by December 31, 2016.

⁵ See GD2-335.

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.

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

[21] At the hearing, the Appellant said she was managing at her job until her dog died and her boyfriend broke up with her in 2014. She could not cope. She cried at work and could not concentrate. She made charting and medication errors.

[22] The Appellant said her condition in 2014 was almost the same as it was in 2019 and as it is now. In 2019 she told her new psychiatrist, Dr. Rafiq, that her main complaints were:⁹

- reduced concentration
- forgetfulness
- word-finding difficulties
- getting nervous when talking to people
- feeling foggy and guarded
- feeling tired, fatigued, and exhausted
- reduced energy
- lack of motivation

[23] The Appellant said she has also experienced thought blocking since 2014. Her mind empties and she forgets what she is doing or saying. It doesn't happen often in conversation, but it happens every day when she is reading or watching television. She also feels anxiety every day. It makes her nerves tense up.

[24] The Appellant filled out a questionnaire for her first disability application.¹⁰ When describing her impairments, she said only that she lacked motivation and had difficulty concentrating and remembering. At times, she had difficulty breathing.

[25] The Appellant completed the questionnaire on December 30, 2016. For this reason, I find it is a more reliable account of what she felt her limitations were at that time than what she now remembers. However, problems with concentration, memory, and motivation can have a significant effect on a person's ability to work. In addition, as

⁹ See GD2-333.

¹⁰ See GD2-1120 to 1127.

I discuss below, I don't just base my decision on the Appellant's subjective view of her limitations. I must also look at the medical evidence.

– **What the medical evidence says about the Appellant at December 2016**

[26] The Appellant must provide some medical evidence to support that her functional limitations affected her ability to work by December 31, 2016.¹¹

[27] The medical evidence supports that the Appellant had functional limitations at that time.

[28] After the Appellant stopped working in 2014, she struggled to keep taking her medication. This caused symptoms like delusional thinking and inability to control her mood. In July 2015 her psychiatrist, Dr. Burke, wrote that it would be difficult for her to return to work.¹² In June 2016, she was in hospital for three weeks because of worsening depression and distress over flashbacks of childhood abuse. She improved after she started taking medication again.¹³

[29] However, the Appellant stopped the medication soon after she was discharged. She relapsed and went back into hospital in November 2016. She had bizarre behaviour, incoherent and illogical thought processes, and paranoid delusions.¹⁴ She started back on medication and was discharged about a month later.

[30] When the Appellant was discharged from hospital in December 2016, she was "doing better." She realized that she needed medication. She had a GAF (Global Assessment of Functioning) score of 51 to 60. Dr. Burke noted that this meant she had moderate symptoms or moderate difficulty in social, occupational or school functioning.¹⁵

¹¹ See *Warren v Canada (Attorney General)*, 2008 FCA 377; and *Canada (Attorney General) v Dean*, 2020 FC 206.

¹² See GD2-1051.

¹³ See GD2-736 to 737.

¹⁴ See GD2-704 to 706.

¹⁵ See GD2-684 to 686.

[31] Soon after this, the Appellant applied for a CPP disability pension for the first time. As part of that application, Dr. Burke submitted a medical report. His observations were based on the Appellant's last visit, which was in December 2016. Dr. Burke wrote that the Appellant had a long history of delusions and non-compliance with medications. Her prognosis was very poor; she had no insight, and she needed a CTO (a community treatment order, which would require her to receive supervised care and treatment outside of hospital.)¹⁶

[32] The medical evidence supports that, at December 31, 2016, the Appellant's fragile medical state would have regularly prevented her from working. She was doing well but risked relapsing if she didn't take her medication, which seemed likely.

– **The decision isn't about whether the Appellant followed medical advice**

[33] To receive a disability pension, an appellant must follow medical advice.¹⁷ If they don't, then they must have a reasonable explanation for not doing so.¹⁸

[34] My decision isn't based on whether the Appellant followed medical advice. At times she didn't take her medication. But she had a reasonable explanation. She stopped her medication in 2018 because her psychiatrist told her to. She stopped the other times because she had trouble grasping that she needed it, or because she wanted to clear her mind. Her reluctance to take medication was caused by her medical condition.

– **What the evidence says about the Appellant after December 2016**

[35] Despite the Appellant's poor prognosis in early 2017, the evidence doesn't support that her condition was **continuously** severe after December 31, 2016.

¹⁶ See GD2-1020.

¹⁷ See *Sharma v Canada (Attorney General)*, 2018 FCA 48.

¹⁸ See *Brown v Canada (Attorney General)*, 2022 FCA 104.

[36] The Appellant saw Dr. Burke on January 17, 2017. This was after he wrote the medical report for her disability application. She discussed her thought blocking, hallucinations, lack of insight, and her belief that she didn't need to be on medication.¹⁹

[37] Two months later, in March 2017, the Appellant told Dr. Burke she was feeling much better. She had no symptoms or hallucinations. She was talking about going back to work. Her mental status exam showed no abnormalities. Her thought process was clear and logical, insight was intact, and judgment was good.²⁰

[38] In May 2017, Dr. Burke said there was no real change since March. The Appellant was still talking about going back to work. She was mostly doing well, with "occasional thoughts," but nowhere near as bad as before.²¹ The Appellant also spoke with a medical adjudicator at Service Canada and said she was much improved on her new medication.²²

[39] In June 2017, Dr. Burke again said there was no significant change. The Appellant's mental status exam was the same as it was in March and May, except that her attitude towards the examiner was "cooperative and contemptuous" instead of just "cooperative." Her GAF was still 51 to 60. She told Dr. Burke that she was "doing fair" and her mood was good. She was ready to return to work in the first week of July. Dr. Burke said there was otherwise no concern, but he didn't say what the "otherwise" referred to. He didn't express any concerns about the Appellant going back to work.²³ I assume he meant that she had some limitations, which he talked about in a letter he wrote to the Appellant's insurance company a few days later.

[40] In the letter, Dr. Burke said the Appellant "has suffered from a fairly significant illness." He said she was "unable to work 12 hour shifts off the top as she requires a lot

¹⁹ See GD2-954 to 955.

²⁰ See GD2-953 to 954.

²¹ See GD2-951 to 952.

²² See GD2-1009.

²³ See GD2-950 to 951.

of attention and rest to help her maintain her focus at this time.” He believed she would be able to resume regular hours and duties by week 11 or 12.²⁴

[41] At the hearing, the Appellant said that this work attempt only lasted one day. She was doing an orientation, which didn’t go well. She just didn’t feel good, she was nervous, and she couldn’t follow instructions.

[42] I accept that this is what the Appellant remembers. But Dr. Burke’s records don’t support her version. They suggest that she may have worked for a few days or weeks, and without significant limitations.

[43] The Appellant saw Dr. Burke on July 17, 2017. She was doing well, with no issues, no problems, and no symptoms. Dr. Burke’s note says the Appellant was “low back to work,” which I assume means “now back to work.”²⁵ I don’t see any way to interpret it as saying anything different. If the Appellant had stopped working, Dr. Burke would have noted the reasons, especially if she had stopped because of her symptoms. He also wrote a letter to the insurance company the same day, saying the Appellant was taking her medication, was stable, and was not a threat to anyone’s safety.²⁶ This tells me that her condition had not changed and, except for the limitations he had noted in his previous letter, he had no concerns about her returning to work as an RPN.

[44] The Appellant didn’t see Dr. Burke again for over a year. In the summer of 2017, she moved to Europe to be with her fiancé. She said she was functioning better because she was happy and could focus on her relationship and planning her wedding. She got married in a civil ceremony in November 2017, and planned a celebration in Canada for the summer of 2018.²⁷

[45] The Appellant said she saw a psychiatrist every week in Europe. At some point the psychiatrist told her she should stop taking her medication. She became psychotic and was in hospital from February to April 2018. She said she signed herself out of the

²⁴ See GD2-949 to 950.

²⁵ See GD2-948 to 949.

²⁶ See GD2-949.

²⁷ The Appellant said this at the hearing.

hospital because she wanted to go back to Canada to finalize the plans for her marriage celebration. She spent two weeks in Canada and then went back to Europe. She believes she stayed in Europe until June or July 2018. She left again because her marriage broke down.²⁸

[46] The Appellant went back to see Dr. Burke in August 2018. She was taking medication and she wanted to go back to work. She said there were no real changes. Dr. Burke noted that the Appellant's family was with her. They agreed she was doing very well, and was continuing to be without delusions or hallucinations. Her mood was much improved. Her mental status exam was the same as it was in July 2017.²⁹

[47] The Appellant had similar results when she saw Dr. Burke in October, November, and December 2018. She was taking her medication. Her GAF score was still 51 to 60. There is nothing to suggest that Dr. Burke had any concerns about the Appellant's level of function or her ability to work.³⁰

– **The Appellant had work capacity after December 2016**

[48] It appears the Appellant stopped taking her medication soon after she saw Dr. Burke on December 17, 2018. This led to another hospitalization on December 30, 2018, and again in May 2019.³¹ However, I didn't consider the Appellant's condition after she saw Dr. Burke in December 2018. This is because I find there is evidence she had some work capacity from March 2017 to December 17, 2018.

[49] There is no medical evidence from when the Appellant was in Europe. I accept that she spent two months in hospital, from February to April 2018. However, except for that time, there is no evidence that her condition was any different from what Dr. Burke reported from March to July 2017, and again from August to December 2018.

[50] In addition, the fact that the Appellant's psychiatrist suggested she stop taking her medication tells me she was likely doing well for the rest of 2017 and into 2018. She

²⁸ The Appellant said this at the hearing. See also GD2-676, which she agreed was accurate.

²⁹ See GD2-945 to 946.

³⁰ See GD2-672 to 675.

³¹ See GD2-658 to 661 and GD2-618.

didn't see Dr. Burke or any other doctor when she was in Canada in April 2018, or after she returned in June or July. This, along with what she and her family told Dr. Burke in August 2018, supports that she was likely doing well during that period.

[51] I accept that the Appellant likely had some functional limitations between March 2017 and December 2018. But, at worst, they were the ones Dr. Burke identified in June 2017: an inability to work 12-hour shifts **because** she needed rest breaks and attention to help maintain her focus. But Dr. Burke wrote those limitations for the Appellant's work as an RPN. There's no evidence the Appellant would need rest or attention to work at a job that was not as demanding mentally and did not require 12-hour shifts.

[52] I now have to decide whether the Appellant could regularly do other types of work after December 31, 2016. To be severe, the Appellant's functional limitations must have prevented her from earning a living at any type of work, not just her usual job.³²

– **The Appellant could work in the real world after December 2016**

[53] When I am deciding whether the Appellant could work, I can't just look at her medical conditions and how they affected what she could do. I must also consider factors such as her age, level of education, language abilities, and work and life experience. These factors help me decide whether the Appellant could work in the real world—in other words, whether it is realistic to say that she could work.³³

[54] I find that the Appellant could work in the real world between March 2017 and December 2018. I didn't consider whether she had work capacity after that, because I find that this period was long enough to say that she was capable regularly of working.

[55] The Appellant argues that her main work experience as an RPN means she has no transferable skills and not enough "working life" left to train for alternative work.³⁴

[56] I don't agree. In 2017 and 2018, the Appellant was only 35 and 36 years old. She had no physical limitations, and no issues with English literacy or language. Her

³² See *Klabouch v Canada (Social Development)*, 2008 FCA 33.

³³ See *Villani v Canada (Attorney General)*, 2001 FCA 248.

³⁴ See GD7-4.

experience in health care included working as a patient porter while she went to college to train to be an RPN. These are all positive traits. They made the Appellant more employable.

[57] I recognize that the Appellant would not have been able to work when she was in hospital for two months in early 2018. But for 11 months before that, and 8 months after, there is no evidence that she had significant limitations. Her only limitations were the moderate, unspecified difficulties with social, occupational, or school functioning indicated by her GAF score. There is no medical evidence of any particular symptoms or limitations that would have prevented her from trying to work.

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

[58] If the Appellant could work in the real world, she must show that she tried to find and keep a suitable job. She must also show her efforts weren't successful because of her medical conditions.³⁵ Finding and keeping a suitable job includes retraining or looking for a job she could do with her functional limitations.³⁶

[59] The Appellant tried to work in July 2017. But her efforts don't show that her disability got in the way of her earning a living. I say this for two reasons.

[60] First, the Appellant didn't tell Dr. Burke that she had failed at this work effort. This tells me that any problems she had were not serious ones that significantly affected her ability to do a different job.

[61] Second, the Appellant only tried working as an RPN. Besides caring for patients, she was also assessing them, dispensing medication, and reporting to other medical staff.³⁷ The job was mentally taxing. Mistakes could have serious consequences. But the Appellant's limitations and background would not have prevented her from trying to do an unskilled, physical job, including one that was part-time.

³⁵ See *Inclima v Canada (Attorney General)*, 2003 FCA 117.

³⁶ See *Janzen v Canada (Attorney General)*, 2008 FCA 150.

³⁷ See GD2-66 and GD2-568.

[62] If the Appellant had tried to do a suitable job between March 2017 and December 2018, she might have had evidence that she could not regularly work enough to earn a living. Because she didn't try, I can't find that she had a severe disability continuously after December 31, 2016.

Conclusion

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

[64] This means the appeal is dismissed.

Virginia Saunders
Member, General Division – Income Security Section