



Citation: *JM v Minister of Employment and Social Development*, 2025 SST 1359

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

Decision

Appellant: J. M.
Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development reconsideration decision dated February 4, 2025 (issued by Service Canada)

Tribunal member: Antoinette Cardillo
Type of hearing: Videoconference
Hearing date: August 19, 2025
Hearing participants: Appellant
Respondent's representative
Decision date: October 20, 2025
File number: GP-25-268

Decision

[1] The appeal is allowed.

[2] The Appellant, J. M., is eligible for a Canada Pension Plan (CPP) disability pension. Payments start as of August 2023. This decision explains why I am allowing the appeal.

Overview

[3] The Appellant is 51 years old with red seal training as a safety officer.

[4] The Appellant applied for a CPP disability pension on July 22, 2024.¹ He based his application on angiosarcoma. He stopped working as a senior safety consultant in 2018. He then worked from April 14, 2021, to May 1, 2021. The Appellant indicated on his CPP disability application he was no longer able to work due to his medical condition as of December 2022.

[5] The Minister of Employment and Social Development (Minister) refused his application. The Minister said that the Appellant's condition was diagnosed after his minimum Qualifying Period (MQP) of December 31, 2021.

[6] The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

¹ See page GD2-50.

What the Appellant must prove

[7] For the Appellant to succeed, he must prove he has a disability that was severe and prolonged by December 31, 2021. This date is based on his CPP contributions.²

He must also prove that he continues to be disabled.³

[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.⁴

[10] 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.

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

[12] 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.

[13] 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.

² 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 page GD2-66.

³ In *Canada (Attorney General) v Angell*, 2020 FC 1093, the Federal Court said that the appellant has to show a severe and prolonged disability by the end of their minimum qualifying period and continuously after that. See also *Brennan v Canada (Attorney General)*, 2011 FCA 318.

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.

Matters I have to consider first

I accepted late documents

[14] The Appellant submitted documents after the hearing.⁶ I agreed at the hearing that I would accept medical reports from before his MQP from his physician. I gave my reasons at the hearing:⁷

- o the evidence was relevant

Reasons for my decision

[15] I find that the Appellant had a severe and prolonged disability as of May 2021, when he last worked. He continues to be disabled. I reached this decision by considering the following issues:

- Was the Appellant's disability severe?
- Was the Appellant's disability prolonged?

Was the Appellant's disability severe?

[16] The Appellant's disability was continuously severe. I reached this finding by considering several factors. I explain these factors below.

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

[17] The Appellant has angiosarcoma.

[18] However, I can't focus on the Appellant's diagnosis.⁸ Instead, I must focus on whether he has functional limitations that got in the way of him earning a living.⁹ When I do this, I have to look at all of the Appellant's medical conditions (not just the main one) and think about how they affected his ability to work.¹⁰

⁶ See GD33.

⁷ Section 42(2) of the *Social Security Tribunal Rules of Procedure* (Rules) sets out what factors I must consider when deciding whether to accept late documents.

⁸ See *Ferreira v Canada (Attorney General)*, 2013 FCA 81.

⁹ See *Klabouch v Canada (Social Development)*, 2008 FCA 33.

¹⁰ See *Bungay v Canada (Attorney General)*, 2011 FCA 47.

[19] I find that the Appellant has functional limitations that affected his ability to work.

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

[20] The Appellant says that his medical condition has resulted in functional limitations that affect his ability to work.

[21] The Appellant said that when he was working as a safety manager, he noticed some lumps on his head in April 2021. He also felt very fatigued, he had no energy, he felt very weak, and he was losing weight. He added that he struggled on a daily basis.

[22] He explained that there was no testing being done at the time because of Covid. He would have virtual appointments with his doctors. He said that he told them about his symptoms and the lumps he noticed.

[23] He said he was too sick to work after 2021. He was dismissed in May 2021.

[24] More lumps appeared in 2023 and also in 2024. He had several surgeries. He attempted a short return to work recently, but he felt overwhelmed. He does not have the energy to work.

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

[25] The Appellant must provide some medical evidence to support that his functional limitations affected his ability to work no later than December 31, 2021.¹¹

[26] The medical evidence supports what the Appellant says.

[27] The medical notes from Dr. Rosenstock, Family Physician, from March 2021 to June 2022 say that the Appellant had hypothyroidism.¹²

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

¹² See pages GD33-5 to GD33-8.

[28] On November 1st, 2022, Dr. Vooght, Family Physician, said that the Appellant had Covid in July and he was not feeling like himself since then.¹³ He asked for a full check up. He felt bloated and was losing muscle mass.

[29] In a medical report dated July 22, 2024, Dr. Vooght said that the Appellant was diagnosed with angiosarcoma in December 2022.¹⁴

[30] In an unsigned letter dated November 18, 2024, Dr. Vooght said that the Appellant was working for an oil and gas plant in April 2021 and while he was on site, he had an itchy swollen tender area on the left side of his head that would not heal. The Appellant has had three surgeries to remove the lumps of the aggressive cancer on his head.

[31] In a letter dated January 27, 2025, Dr. Vooght said that prior to December 2021, the Appellant had thyroid issues and anxieties.¹⁵

[32] In a letter dated April 1, 2025, Dr. Brabant, Family Physician, said that the Appellant's tumour was first noticed on April 15, 2021, with a recurrent bleeding lesion associated with severe fatigue.¹⁶ Due to Covid, the lesion was left unassessed May 2023. He has had three surgeries, and the risk of the disease reoccurring is high. The cancer has left the Appellant with debilitating symptoms that have resulted in an inability to work. He also needed close follow ups and potentially further surgeries which further limited his ability to work.

[33] The medical evidence supports that the Appellant's functional limitations prevented him from working.

[34] Next, I will look at whether the Appellant followed medical advice.

¹³ See page GD2-82.

¹⁴ See page GD2-111.

¹⁵ See page GD2-11.

¹⁶ See page GD19-9.

– **The Appellant followed medical advice**

[35] To receive a disability pension, an appellant must follow medical advice.¹⁷

[36] The Appellant followed medical advice. The Appellant has taken medication, and he has had surgeries.

[37] 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 him from earning a living at any type of work, not just his usual job.¹⁸

– **The Appellant can't work in the real world**

[38] When I am deciding whether the Appellant can work, I can't just look at his medical condition and how it affects what he can do. I must also consider factors such as his:

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

[39] These factors help me decide whether the Appellant can work in the real world—in other words, whether it is realistic to say that he can work.¹⁹

[40] I find that the Appellant can't work in the real world. He hasn't been able to work since May 2021.

[41] I disagree with the Minister's position. Although the Appellant was diagnosed with angiosarcoma in 2023, the symptoms of the cancer were present before his MQP of December 2021. The Appellant testified that while he was working as a safety officer

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

¹⁸ See *Klabouch v Canada (Social Development)*, 2008 FCA 33.

¹⁹ See *Villani v Canada (Attorney General)*, 2001 FCA 248.

in April 2021, he was itchy and had a lump on his head. This was also confirmed by Dr. Vooght.²⁰

[42] Also, Dr. Brabant said that the Appellant's tumour was first noticed on April 15, 2021, with a recurrent bleeding lesion associated with severe fatigue.²¹ Due to Covid, the lesion was left unassessed until May 2023.

[43] The Appellant has had three surgeries, and the risk of the disease reoccurring is high. Based on the evidence, the cancer has left the Appellant with debilitating symptoms. He suffers from fatigue, lack of energy, and weakness.

[44] I have also considered the Appellant's personal characteristics. Although the Appellant is still young (51-year-old), he has an aggressive form of cancer which has left the Appellant with functional limitations preventing him from having a gaining occupation.

[45] I find that his disability was severe as of May 2021, when he last worked.

Was the Appellant's disability prolonged?

[46] The Appellant's disability was prolonged.

[47] The Appellant's condition began in April 2021. This condition has continued since then despite treatment.²²

[48] The Appellant's condition will more than likely continue indefinitely.

[49] I find that the Appellant's disability was prolonged as of May 2021.

When payments start

[50] The Appellant had a severe and prolonged disability in May 2021.

²⁰ See page GD3-59.

²¹ See page GD19-9.

²² In the decision *Canada (Attorney General) v Angell*, 2020 FC 1093, the Federal Court said that an appellant has to show a severe and prolonged disability no later than the end of their minimum qualifying period and continuously after that. See also *Brennan v Canada (Attorney General)*, 2011 FCA 318.

[51] However, the Canada Pension Plan says a person can't be considered disabled more than 15 months before the Minister receives their disability pension application.²³ After that, there is a four-month waiting period before payments start.²⁴

[52] The Minister received the Appellant's application in July 2024. That means he is considered to have become disabled in April 2023.

[53] His pension payments start as of August 2023.

Conclusion

[54] I find that the Appellant is eligible for a CPP disability pension because his disability was severe and prolonged.

[55] This means the appeal is allowed.

Antoinette Cardillo
Member, General Division – Income Security Section

²³ Section 42(2)(b) of the *Canada Pension Plan* sets out this rule.

²⁴ Section 69 of the *Canada Pension Plan* sets out this rule. This means that payments can't start more than 11 months before the application date.