



Citation: *AK v Minister of Employment and Social Development*, 2026 SST 194

## Social Security Tribunal of Canada Appeal Division

# Decision

**Appellant:** A. K.  
**Representative:** D. B.

**Respondent:** Minister of Employment and Social Development  
**Representative:** Michael Elliott

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**Decision under appeal:** General Division decision dated September 26, 2025  
(GP-24-1768)

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**Tribunal member:** Neil Nawaz

**Type of hearing:** Videoconference  
**Hearing date:** March 5, 2026  
**Hearing participants:** Appellant  
Appellant's representative  
Respondent's representative

**Decision date:** March 11, 2026  
**File number:** AD-25-626

## Decision

[1] I am dismissing this appeal. The Appellant is not entitled to a Canada Pension Plan (CPP) disability pension.

## Overview

[2] The Appellant is a 53-year-old former sales manager with a history of anxiety and depression. She left her job after a mental health crisis in 2013 and has worked intermittently since then.

[3] The Appellant applied for a CPP disability pension in November 2023.<sup>1</sup> Service Canada, the Minister's public facing agency, refused the application after determining that the Appellant didn't have a severe and prolonged disability during her disability coverage period, which ended on December 31, 2015. Among other things, Service Canada found that the Appellant's medical condition didn't become serious until after that date.

[4] The Appellant appealed Service Canada's refusal to the Social Security Tribunal. The Tribunal's General Division held a hearing by videoconference and dismissed the appeal. It found that, while the Appellant might be currently disabled, there wasn't enough medical evidence to show that she was regularly incapable of substantially gainful employment during her coverage period. It also found limited evidence that she was functionally impaired from 2013 to 2023.

[5] The Appellant then applied for permission to appeal to the Appeal Division. In October, I allowed her appeal to go ahead. Earlier this month, I held a new hearing to consider the merits of the Appellant's disability claim.

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<sup>1</sup> See Appellant's application for the CPP disability pension dated November 21, 2023, GD2-119.

## Issue

[6] For the Appellant to succeed, she had to prove that, more likely than not, she had a severe and prolonged disability during her CPP disability coverage period, formally known as a minimum qualifying period (MQP):

- A disability is **severe** if it makes a claimant incapable regularly of pursuing any substantially gainful occupation.<sup>2</sup> A claimant isn't entitled to a disability pension if they are regularly able to do some kind of work that allows them to earn a living.
- A disability is **prolonged** if it is likely to be long continued and of indefinite duration or is likely to result in death.<sup>3</sup> The disability must be expected to keep the claimant out of the workforce for a long time.

[7] The parties agreed that the Appellant's MQP ended on December 31, 2015.<sup>4</sup> As a result, I had to decide whether the Appellant had a severe and prolonged disability as of that date and whether he has had one ever since.

## Analysis

[8] I have applied the law to the available evidence and concluded that the Appellant is not entitled to the CPP disability pension. The Appellant has mental health problems, but there isn't enough evidence to show that they prevented her from working before December 31, 2015.

### **The Appellant didn't have a severe disability during her MQP**

[9] Claimants for disability benefits bear the burden of proving that they had a severe and prolonged disability during their MQP.<sup>5</sup> I have reviewed the record, and I have

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<sup>2</sup> See *Canada Pension Plan*, section 42(2)(a)(i).

<sup>3</sup> See *Canada Pension Plan*, section 42(2)(a)(ii).

<sup>4</sup> Under section 44(2) of the *Canada Pension Plan*, CPP disability coverage is established by making threshold contributions to the CPP. The Appellant's CPP contributions are listed on her record of earning and contributions at GD2-143.

<sup>5</sup> See *Canada Pension Plan*, section 44(1).

concluded that the Appellant did not meet that burden according to the test set out in the *Canada Pension Plan*.

– **The Appellant initially claimed that she didn't become disabled until June 2023**

[10] In her application for benefits, the Appellant said that she had been unable to work since June 2023 because of severe anxiety, depression, panic disorder, and obsessive-compulsive behavior.<sup>6</sup> She denied having any physical problems and rated many of her behavioural, emotional, and cognitive abilities as “fair” to “excellent.”

However, she said that she was “poor” at the following tasks:

- Keeping at difficult tasks
- Adjusting easily to unexpected changes
- Figuring out what to do when stressed
- Managing anxiety
- Concentrating and focusing attention for at least 30 minutes
- Keeping track of activities
- Learning new things such as organizing files according to a system
- Using public transportation

[11] The Appellant emphasized that maintaining concentration was a daily struggle and that she was prone to panic attacks when under pressure. However, it's not clear whether she was addressing her condition as of the application date or as of the end of 2015, when she last had coverage.

[12] The Appellant testified that she worked for several years as an administrative assistant at a property management company. She then went back to school for training as an aesthetician. After earning her diploma, she was hired by a small chain of day spas. Over the next 10 years, she worked her way up to become director of operations, overseeing seven locations and reporting directly to the president. In this position, she

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<sup>6</sup> See the Appellant's application for benefits, GD2-122.

managed all aspects of operations, including budgeting, training, products, and promotions. At the end, she was making \$70,000 per year plus a car allowance.

[13] In 2011, her eldest son was arrested for aggravated assault. What followed was a nearly two-year ordeal to clear his name. She and her husband went into crisis mode and mortgaged their house to pay lawyers' fees exceeding \$150,000. In the end, all charges were dropped, but she was left feeling drained rather than elated.

[14] Her family doctor advised her to take stress leave, but her boss offered her no sympathy. He told her to quit if she wanted time off, so she did just that. Feeling betrayed by an employer for whom she had sacrificed much, she suffered what she thinks was a nervous breakdown. For the next two years, she isolated herself. She barely left her house. There were days where she stayed in bed. She found it hard getting dressed. She couldn't even write an email. She feels like she hasn't been the same since.

[15] While the Appellant may be unable to hold a job now, that doesn't mean she had a severe disability as of December 31, 2015. The Appellant says that she has been disabled for more than 10 years, but I can't base my decision on just her subjective view of her capacity at that time.<sup>7</sup> I also have to look at the available medical evidence.

– **Medical evidence from the MQP doesn't point to debilitating health problems**

[16] A problem for the Appellant is that the available medical evidence from before December 31, 2015 doesn't strongly support her claim.

[17] In the medical report that accompanied her CPP disability application, a psychiatrist, Dr. Barabtarlo, listed the Appellant's diagnoses as major depressive disorder, with associated symptoms of anxiety and cognitive deficits, as well as panic attacks aggravated by OCD.<sup>8</sup> He said that she was unlikely to return to work in the future given the chronic nature her condition and her poor response to treatment. However, I can give Dr. Barabtarlo's opinion only so much weight, because it was

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<sup>7</sup> See section 68(1) of the *Canada Pension Plan Regulations*.

<sup>8</sup> See the report dated November 21, 2023 by Dr. Jack Barabtarlo, psychiatrist, GD2-456.

delivered in November 2023, nearly eight years after the end of the Appellant's coverage period. Moreover, Dr. Barabtarlo had only started seeing the Appellant a few months earlier, so he had no first-hand knowledge of the Appellant's condition during the relevant period.<sup>9</sup>

[18] When we go back to the MQP, we see that the Appellant was regularly seeing her family physician in the years leading up to December 31, 2015. However, Dr. Iankova's clinical notes from that time didn't strongly suggest a disability either — severe or otherwise.

[19] In October 2013, the Appellant told Dr. Iankova that she had been feeling on edge for the past year, because her job had changed in a negative direction.<sup>10</sup> She reported being stressed, forgetful, sleepless, irritable, and impatient, with decreased concentration and increased appetite. Dr. Iankova concluded that the Appellant was suffering from psychosocial stress and possible depression. She recommended that the Appellant talk with her boss and advised against a long-term break of her employment.

[20] The following month, Dr. Iankova noted that the Appellant was exhausted and had asked her boss for permission to take an unpaid leave. He refused and suggested that she quit instead.<sup>11</sup>

[21] The Appellant did just that. In January 2014, she told Dr. Iankova that, since going off work, she was feeling much better and wanted to start looking for another job.<sup>12</sup> She continued to feel anxious and irritable but reported increased energy and improved sleep. Iankova declared the Appellant's depression in remission and pronounced her able to return to work.

[22] The Appellant's mental health remained stable over the next two years:

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<sup>9</sup> See Dr. Barabtarlo's letter dated April 18, 2023, GD5-34.

<sup>10</sup> See clinical note dated October 7, 2013 by Dr. Vesselina Iankova, family physician, GD3-33.

<sup>11</sup> See Dr. Iankova's clinical note dated November 25, 2013, GD3-38.

<sup>12</sup> See Dr. Iankova's clinical note January 6, 2014, GD3-41.

- In March 2014, Dr. Iankova noted that the Appellant felt well, her mood was improved, and she had increased energy.<sup>13</sup> Dr. Iankova again declared the Appellant's depression in remission.
- In July 2014, Dr. Iankova reiterated that the Appellant's mood was improved. She looked well and had no depression.<sup>14</sup>
- In February 2015, Dr. Iankova wrote that the Appellant felt well and her mood was stable.<sup>15</sup> She was selling Rogers products.
- In May 2016, shortly after the end of the MQP, Dr. Iankova stated the Appellant felt well.<sup>16</sup> She was self-employed giving cooking classes and happy with her new business.

[23] From early 2014 to early 2016, the Appellant saw her family physician several times about various medical issues, most significantly, a groin abscess that was successfully treated. During that those two years, Dr. Iankova consistently reported that the Appellant was not depressed and that her mood was good. The evidence strongly suggests that, while the Appellant suffered a mental health crisis in late 2013, it was situational, the result of specific, but temporary, stressors. The Appellant's son was embroiled in legal troubles for two years, but they eventually came to an end. Her relationship with her employer soured, but I saw no evidence that this bad experience rendered her incapable of working for good. In fact, she began thinking about returning to work before the end of her MQP and eventually did so.

[24] I find it telling that, in the years leading up to the end of the MQP, the Appellant's family physician offered the Appellant minimal treatment for her mental health problems. From 2013 to 2016 and in the years afterward, Dr. Iankova did not prescribe the Appellant with antidepressants or refer her to a psychiatrist or

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<sup>13</sup> See Dr. Iankova's clinical note dated March 28, 2014, GD3-43.

<sup>14</sup> See Dr. Iankova's clinical note dated July 11, 2014, GD3-57.

<sup>15</sup> See Dr. Iankova's clinical note dated February 9, 2015, GD3-74.

<sup>16</sup> See Dr. Iankova's clinical note dated May 30, 2016, GD3-98.

psychologist.<sup>17</sup> From this, one can reasonably infer that Dr. Iankova regarded her patient's condition as less than severe.

[25] At the hearing, the Appellant suggested that Dr. Iankova was unduly cautious, even negligent, in her approach to treatment. But that doesn't accord with how Dr. Iankova reacted, nearly 10 years later, when the Appellant had a crisis following the failure of her import business. In 2022, Dr. Iankova put the Appellant on antidepressants, starting with Zoloft,<sup>18</sup> and referred her to Dr. Barabtarlo, the psychiatrist.<sup>19</sup>

[26] Based on her responses to the Appellant's two mental health episodes, it appears that Dr. Iankova thought the one in 2013 was less serious than the one in 2022. The latter episode may have marked the onset of a severe disability, but it occurred many years after the end of her coverage period.

– **The Appellant's condition didn't prevent her from working in the real world**

[27] The Appellant may have suffered from depression and anxiety in the period leading up to December 31, 2015, but she still had at least some ability to work. I am reinforced in this belief when I look at her overall employability at the time.

[28] The leading case on the interpretation of "severe" is *Villani*, which requires the Tribunal, when assessing disability, to consider a disability claimant as a "whole person" in a real-world context.<sup>20</sup> Employability is not to be assessed in the abstract, but rather in light of "all of the circumstances."

[29] When deciding whether the Appellant can work, I can't just look at her medical conditions. I must also consider factors such as her age, level of education, language

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<sup>17</sup> In a clinical note dated November 25, 2013, Dr. Iankova wrote, "Still prefers not to take med [sic]," suggesting that the Appellant was reluctant to take antidepressants at the time. It is not clear what drove this reluctance, but the fact remains that Dr. Iankova did strongly urge her patient to consider what mental health professionals generally consider to be frontline treatment of depression and anxiety.

<sup>18</sup> See Dr. Iankova's clinical note dated April 11, 2022, GD3-147.

<sup>19</sup> See Dr. Iankova's referral letter dated May 1, 2022, GD3-154.

<sup>20</sup> See *Villani v Canada (Attorney General)* 2001 FCA 248.

abilities, and past work and life experience. These factors help me decide she was able to work in the real world.

[30] The Appellant's background and personal characteristics were not barriers to her continued participation in the labour market. At the end of her MQP, she was only 43 years old — a prime working age. She was fluent in English and had many years of substantial work experience in roles of increasing responsibility.

[31] With this profile, the Appellant was well positioned to attempt to return to work. As we will see, she eventually succeeded in doing so.

### **The Appellant's disability was not prolonged**

[32] I am satisfied that the Appellant didn't have a severe disability as of December 31, 2015. But even if she did, her claim would still fail because she hasn't shown that her disability was prolonged.

[33] Under the *Canada Pension Plan*, a disability must be severe **and** prolonged. As noted above, a prolonged disability is one that is likely to be long continued and of indefinite duration or likely to result in death. The courts have held that to be prolonged, disability can't be temporary or for a "closed" period.

[34] A period is closed if it has a reasonably foreseeable end date. In a case called *Litke*, the Pension Appeals Board (PAB) found that the claimant's disability was not prolonged, because it was of a definite duration. The Federal Court of Appeal agreed with the PAB that the evidence showed the claimant was capable of returning to work following her cancer treatment, despite the fact that she had other health issues.<sup>21</sup>

[35] In this case, the evidence shows that whatever impairment the Appellant had before December 31, 2015, it was neither prolonged nor continuous.

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<sup>21</sup> See *Litke v Canada (Human Resources and Social Development)*, 2008 FCA 366.

– **The Appellant had no mental health complaints for eight years**

[36] The Appellant has regularly and frequently seen her family physician. But Dr. Iankova’s clinical notes between 2014 and 2022, contain hardly any mention of mental health issues.<sup>22</sup> The notes document a wide range of complaints — a pelvic abscess, hypothyroidism, breast reduction, shoulder pain, dermal lesions, persistent cough, diabetes, and celiac disease — but they say nothing about anxiety or depression, debilitating or otherwise, for more than eight years.

[37] I asked the Appellant why her medical file contains almost no information about her mental health condition from 2014 and 2022. She replied that she probably didn’t say much to Dr. Iankova about her anxiety and depression because she was feeling better being at home instead of being at work. Moreover, at the time, she genuinely thought that she was going to get better and that it was only a matter of time until she found another job. Still, she insisted that she was in bad psychological shape.

[38] However, Dr. Iankova’s notes say something else. They allude to the Appellant’s ongoing efforts to earn money after her MQP. In July 2016, the Appellant was described as “cooking for a living.”<sup>23</sup> In May 2016, November 2017, and May 2019, she described herself as “self employed.”<sup>24</sup> In April 2022, she said that her cooking business had “made her happy” but that COVID-19 had cost her business.<sup>25</sup>

– **The Appellant’s post-MQP business earnings don't harm her claim**

[39] The Appellant was indeed self-employed for several years. She testified that, after her breakdown in 2013, she did her best to go back to work. For about a year, she joined a multi-level marketing scheme that resold Rogers telecom plans. It was a job

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<sup>22</sup> See Dr. Iankova’s clinical notes from March 28, 2014, to April 5, 2022, GD3-43 to GD3-143. Another version of the same notes, from January 6, 2015 to April 5, 2022, can be found from GD2-189 to GD2-355.

<sup>23</sup> See Dr. Iankova’s clinical note dated July 4, 2016, GD3-112.

<sup>24</sup> See Dr. Iankova’s clinical notes dated May 30, 2016 (GD3-99), November 27, 2017 (GD2-262) and May 17, 2019 (GD2-305).

<sup>25</sup> See Dr. Iankova’s clinical note dated April 5, 2022, GD3-142.

that she could do from home, but she couldn't concentrate and felt severe anxiety. She never made any money from it.

[40] Later, around 2016, she began offering cooking classes out of her own home. She also started doing small scale catering — she specialized in charcuterie boards and party trays for Christmas and other holidays. She didn't advertise and relied on word-of-mouth from friends and acquaintances. It was strictly a cash business. She gave these ventures up around 2019 and figures she made maybe \$1,000 from them in total.

[41] At around the same time, she started a business importing truffles and other specialty gourmet products from Serbia. It turned out to be a lot more complicated than she expected. There were a lot of expenses associated with transport, customs fees and food safety permits, and the business ended up losing money.

[42] The Minister requested the Appellant's income tax records, and they confirm that, at best, the Appellant derived only modest amounts from her businesses. However, contrary to the Minister's submissions, I don't think these amounts prove much. From 2014 to 2019, the Appellant reported gross business income ranging from roughly \$2,000 to \$16,000 annually.<sup>26</sup> But after business expenses, she recorded thousands in net losses most years.

[43] The numbers show that the Appellant had at least some energy and initiative after her MQP, enough to run a business of some volume for several years running. However, the Appellant's earnings by themselves don't prove that she had the capacity to regularly pursue a substantially gainful occupation.

[44] Her next job, however, is another story.

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<sup>26</sup> See email dated December 10, 2025, from a CRA program services officer summarizing the Appellant earnings from 2014 to 2024, AD4-15.

– **The Appellant's last job suggests she had significant capacity after her MQP**

[45] In October 2022, the Appellant was hired to help manage an organic grocery store. Her record there indicates that, whatever impairment she might have had previously, it did not persist.

[46] The Appellant testified that, after her truffle import business closed, she felt like a failure. Still, she tried to carry on. One of her customers was a small specialty grocery, whose owner employed her husband at one of his other companies. In October 2022, Frank's Organic Garden hired her as assistant manager. Things started out well, but soon the pressure started to mount. Her fear of people and responsibility reasserted itself and a few months later she had a full-blown panic attack on the floor. She had to go on sick leave for six weeks. She returned, only to quit for good in August 2023.

[47] However difficult the Appellant found her job at Frank's Organic Garden, the fact remains that it earned her more than \$50,000 during the 10 months she worked there.<sup>27</sup> That is well above the statutory threshold for substantially gainful.<sup>28</sup> What's more, a questionnaire completed and returned by Frank's disclosed that, other than sick leave between June 14, 2023 and July 31, 2023, the Appellant had good attendance and satisfactory performance.<sup>29</sup>

[48] I accept that the Appellant felt stressed and pressured in her job, but she was working as an assistant retail manager and had significant responsibilities. According to Frank's questionnaire, she reported to the operations manager and, among other duties, had to

- Ensure the marketplace was operating at its highest potential
- See that all shelves were stocked and produce quality exceptional
- Fill out ordering sheets on a daily and weekly basis.

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<sup>27</sup> The CRA income summary indicates that the Appellant reported \$12,115 in employment earnings in 2022 and \$37,961 in 2023 — see AD4-15.

<sup>28</sup> Section 68.1 of the *Canada Pension Plan Regulations* associates “substantially gainful” with the maximum annual amount that a person can receive as a disability pension. This threshold, which is adjusted every year, was \$18,508 in 2023.

<sup>29</sup> See employer questionnaire completed by an unnamed employee of Frank's Organic Gardens and date stamped August 1, 2024, GD2-443.

- Comply with health and safety regulations
- Work with managers to bring in new, trending, organic products
- Communicate any marketplace changes to all team members
- Maintain cleanliness
- Provide support to team members during holidays and peak hours
- Receive shipments and store them in proper locations
- Handle incoming invoices
- Oversee printing all types of products labels
- Communicate, train and promote quality standards to team members
- Aid in recruiting, hiring, and training new staff members
- Conduct annual performance reviews of team members with the manager
- Respond professional and promptly to all customer concerns or issues
- Maintain an atmosphere of teamwork, energy, and fun
- Check food quality and expedition time on takeout orders
- Manage Door Dash and Skip the Dishes platforms
- Answer communication in a timely manner, inside and outside the company
- Ensure all daily financials were correct and complete<sup>30</sup>

[49] This was an extremely intense and demanding job. The fact that the Appellant was able to consistently do such a job for even eight months, prior to taking sick leave, suggests that she had considerable capacity.

[50] But not every job is like the one the Appellant had at Frank's. Other jobs come with fewer responsibilities and are not as inherently stressful. Given her post-MQP history, I strongly suspect that the Appellant would have been to succeed in a somewhat less demanding job. For that reason, I don't agree that whatever impairment she might have once had was prolonged.

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<sup>30</sup> See job description appended to the Frank's Organic Garden questionnaire, AD4-450.

## Conclusion

[51] The Appellant had a mental health crisis during her MQP, but it didn't result in a severe or prolonged disability. The Appellant's crisis in 2013 was triggered by situational factors, and her symptoms appear to have been largely resolved by time her MQP ended on December 31, 2015. Over the next several years, she frequently saw her family physician but raised no concerns about her psychological condition. In April 2022, following business reversals, she had another mental health crisis that led to more intensive treatments, including antidepressant trials and psychiatric intervention. However, all of this happened well after the expiration of her CPP disability coverage.

[52] The appeal is dismissed.



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Member, Appeal Division