



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. L. v. Minister of Employment and Social Development*, 2016 SSTGDIS 1

Date: January 6, 2015

File number: GP-14-738

GENERAL DIVISION - Income Security Section

Between:

S. L.

Appellant

and

Minister of Employment and Social Development

Respondent

Decision by: Neil Nawaz, Member, General Division - Income Security Section

Heard by Videoconference on December 23, 2015

REASONS AND DECISION

PERSONS IN ATTENDANCE

S. L., the Appellant.

INTRODUCTION

[1] The Appellant was born in Greece in April 1939 and immigrated to Canada with her family in February 1953. In 2003, the Respondent approved her application for an Old Age Security (OAS) pension effective May 2004 and later commenced payment of a Guaranteed Income Supplement (GIS). Following an investigation, the Respondent determined that the Appellant had not been a resident of Canada, and in June 2013 advised her that it had terminated both her OAS and GIS benefits, demanding that she repay a total of \$89,296 that she had received for the period from May 2004 to December 2012. The Respondent denied the Appellant's request for reconsideration and On February 6, 2014, she appealed that decision to the General Division of the Social Security Tribunal (Tribunal).

[2] As explained in the Notice of Hearing dated July 21, 2015, this appeal was heard by videoconference for the following reasons:

- The Appellant was to be the only party attending the hearing;
- Videoconferencing was available in the area where the Appellant lives;
- The issues under appeal were complex;
- There were gaps in the information in the file and/or a need for clarification;
- The form of hearing was the most appropriate to address inconsistencies in the evidence; and,
- The form of hearing respected the requirement under the *Social Security Tribunal Regulations* to proceed as informally and quickly as circumstances, fairness and natural justice permit.

[3] This appeal was originally scheduled to be heard on November 2, 2015 but was adjourned at the instance of the Tribunal because the Appellant's representative did not appear.

[4] On December 22, 2015, the Tribunal received a letter from the Appellant's representative requesting a second postponement because he was recovering from a long illness and was still not well enough to conduct the hearing.

[5] After some thought, the Tribunal decided to proceed with the hearing as scheduled because a previous postponement had been already granted and exceptional circumstances had not been established to justify another delay, as required under subsection 11(2) of the SST Regulations.

[6] Based on the foregoing circumstances and having reviewed the hearing file, the Tribunal concluded that the Appellant's right to procedural fairness would not be prejudiced by proceeding in her representative's absence.

APPLICABLE LAW

[7] In this case, the relevant legislative and regulatory provisions are as follows:

[8] Under section 3 of the *Old Age Security Act* (OAS Act), a person must have resided in Canada for at least 40 or more years after his or her 18th birthday in order to receive a full OAS pension. In order to receive a partial pension, a person must have resided in Canada for at least ten years following his or her 18th birthday.

[9] Subsection 20(1) of the *Old Age Security Regulations* (the OAS Regulations) enables the Minister to require a statement giving full particulars of all periods of residence in Canada and of all absences from Canada that are relevant to his or her eligibility for a pension.

[10] Section 21 of the OAS Regulations makes the distinction between 'residence' and 'presence' in Canada. A person resides in Canada if he or she makes his or her home and ordinarily lives in any part of Canada, but a person is merely present when he or she is physically in any part of Canada.

ISSUE

[11] In this case, the parties agree and the Tribunal finds that the issue to be resolved is as follows: Has the Appellant ever resided (as opposed to merely being present) in Canada and, if so, for how long?

DOCUMENTARY EVIDENCE

[12] The Tribunal took the entire record into account. The following is a summary of the relevant evidence in this case.

[13] In her application for OAS benefits dated June 19, 2003 (p. GD2-99), the Appellant declared that she was born in 1939 and had been a resident of Canada since 1953, with no absences from this country exceeding six months after the age of 18. An application for the GIS was submitted on October 22, 2007 (p. GD2-101).

[14] The Appellant's CIBC bank books (p. GD4-5) showed regular transactions from March 1991 to March 1994.

[15] Bank books and a transaction history from January 1998 to February 2014 were provided for the Appellant's Royal Bank chequing account (p. GD1-12-88). They indicated regular, albeit infrequent, transactions every month, with the occasional cash withdrawal. After 2003, cheques in the amount of \$500 were drawn in most months.

[16] A certified copy of the Appellant's Landed Immigrant card (p. GD3-11) indicated that the Appellant entered Canada on February 6, 1953.

[17] A record from Swansea Public School dated September 15, 1956 (p. GD3-13) indicated that the Appellant was withdrawn and "transferred to Chicago."

[18] A certificate from an unknown jurisdiction dated September 17, 1958 (p. GD2-33) indicated the Appellant B. C. (B. L.) was born in Greece in April 1940.

[19] A certificate from the Canadian Schools of Practical Nursing dated February 23, 1965 (p. GD4-4) stated that the Appellant was a student in good standing.

[20] Documents issued Metropolitan Toronto Licensing Commission dated July 15, 1971 and September 3, 1971 (p. GD4-3) indicated that the Appellant was licensed to be a hairdresser.

[21] A business card for P.'s House of Beauty listed an address for X, Ontario.

[22] The Appellant's Canadian passport (p. GD2-206) was reproduced for the hearing file. It was issued in Mississauga on May 24, 2007 and listed the Appellant's year of birth as 1940. Entry and exits stamps indicated the Appellant travelled abroad from June 7, 2007 to October 4, 2007. A copy of the Appellant's Canadian passport, issued in Mississauga on May 2, 2012, was reproduced for the hearing file on p. GD2-298. It contained no stamps.

[23] A copy of the Appellant's Ontario driver's license (p. GD2-116) was reproduced for the hearing file. It was issued on June 16, 2010 and indicated the Appellant's year of birth as 1943. Her address was listed as X X Crescent, X.

[24] In a letter dated July 24, 2001, G.A K., Mayor of X, wrote to verify that the Appellant had been a resident of X X Crescent for approximately twenty years.

[25] In a letter dated March 5, 2003 (p. GD4-2), D. R., senior pastor, wrote that the Appellant desired to be a faithful church member but found it difficult to be consistent in her attendance as a result of a work schedule that compelled her to work on Sundays.

[26] Dr. Kai Chau, the Appellant's dentist, submitted a record of services (p. GD1-90) from May 2003 to July 2013. It detailed regular and frequent interventions from 2003 to 2006, with only one appointment (in 2008) between 2006 and 2012. There were then several visits in 2012-13.

[27] In a handwritten note dated October 7, 2013 (p. GD1-108), A. R., a veterinarian, wrote that he had known the Appellant for 18 years. To his knowledge, she had always resided at X X Crescent, X with her sister.

[28] In a questionnaire completed at the request of the Respondent on January 31, 2013 (p. GD2-291), the Appellant stated that she resided in Canada and on average once a year visited the U.S. to attend religious conventions for periods ranging from two to seven days. She had relatives in the Chicago area. She had an OHIP card but used it only when required. In a follow-

up questionnaire dated May 1, 2013 (p. GD2-201), the Appellant wrote that she visited the United States but did not hold a Green Card. She held a Canadian driver's license but had misplaced it.

[29] A Service Canada Record of Earnings generated on February 14, 2014 (p. GD2-3) indicated earnings and contributions to the Canada Pension Plan in 1966-67 and from 1971 to 2000 inclusively. Her reported earnings in most years were low and in no year did they exceed \$9,000.

[30] Income Tax Summaries generated by the Canada Revenue Agency for the years 1995 to 2012 (pp. GD2-123-157) indicated that the Appellant reported T4 income in almost all years in varying amounts, from as low as \$246 in 2009 to as high as \$17,903. The exceptions were 1995, when she reported gross business income of \$23,685, and 2009, when she reported no employment or business income.

[31] In a letter dated January 24, 2013 (p. GD2-297), U. A., human resources coordinator at TJX Canada, wrote that the Appellant had been a part-time sales associate at Winners X since December 16, 2011.

[32] In a letter dated September 20, 2013, (p. GD2-117), Constance D. G., personnel manager at Walmart Canada, wrote that the Appellant was employed from June 2, 2001 to March 11, 2008 as a sales associate. A Record of Employment prepared by Walmart (p. GD2-122) indicated that the Appellant was employed from June 1, 2001 to March 11, 2008. Her total insurable earnings were \$4,245.

[33] In a letter addressed to the Appellant and dated December 2, 2013 (p. GD2-105), the X, Illinois office of the U.S. Social Security Administration, confirmed that the Appellant did not receive benefits, either now or the past, nor was there any claim pending.

[34] A commercial Internet listing (p. GD2-188) for P.'s House of Beauty listed its address as X X Crescent, X.

[35] In two questionnaires completed at the request of the Respondent on March 18, 2013 (p. GD2-249) and April 17, 2013 (p. GD2-250), G. O. wrote that the Appellant had been his tenant

at X X Crescent, X since 2003. Asked whether she used the space for storage, he replied “no,” then crossed it out and wrote “yes.” Asked whether she rented living accommodation at this location, he replied “no,” then crossed it out and wrote “yes.”

[36] The Respondent’s investigation into the status of the Appellant generated numerous memos and briefing notes prepared by Selina Jenneault, a field officer with Employment and Social Development Canada, formerly known as Human Resources and Skills Development Canada. In an interview with the Appellant on February 28, 2013 (p. GD2-276), she stated that she worked at Food Basics, Walmart, No Frills, and was currently working at Winners. The house in which she claimed to live was listed in her sister’s P.’s name, although it was considered a family home.

[37] In telephone interviews on April 30, 2013 (p. GD2-224), G. O. said he had been the Appellant’s landlord since 2003 and collected \$500 per month in rent—some payments were in cash, some were by cheque. There was no lease agreement, and he did not declare income on his taxes. He indicated that he crossed out his original answers on the written questionnaire at the Appellant’s instruction. She told him his answers were incorrect. He was confused about the purpose of the form. In a subsequent call, Mr. G. O. declared that the Appellant “was gone” for two years and was living in Illinois. The Appellant, who was proximate to Mr. G. O., came on the line to deny that she had ever lived in Illinois and had been there for only a week to visit her family. Mr. G. O. later admitted he was feeling pressured.

[38] Telephone interview notes dated June 5, 2013 (p. GD2-197) indicated that the Appellant had no OHIP card or family doctor. She relied on God. She was asked how she managed to visit the U.S. so often when her passport did not indicate any trips. She stated she was never asked to show her passport.

[39] Ms. Jenanault’s Report of Investigation was dated June 18, 2013 (p. GD2-165). Based on a field visit and a third party reference (the Mayor of the Town of X), the Appellant’s Canada Pension Plan Retirement pension benefit was released effective May 2000. At that time, S. L., also known as B. C. and V. C., was 62 years of age. In September 2012, an investigation request was received for the Appellant’s brother. In reviewing the investigation request, it was observed that the Appellant resided with her brothers and sisters at same residential address and

that she was authorized to communicate on behalf of her siblings. It was determined that a full residence review be conducted on all clients residing at X X Crescent in X.

[40] A briefing note prepared for the Respondent and dated July 10, 2013 (p. GD2-158) indicated the Appellant was investigated by the Integrity Unit, which determined that although she might have had some presence in Canada, she had not been a resident since her family left Canada while she was still in public school. Investigation revealed that the Appellant had never had an OHIP card and never produced a driver's license. School records indicated a move to Chicago in 1956 and all interviews were conducted in her sister's home rather than where she was presumably renting. Contact with references and other information received confirmed that she is a resident of Chicago Illinois. She received her Canadian Citizenship document in September 1958. She also had some self-employment CPP contributions, which were the result of visits to her family, when she may have worked in a hair salon on the property. The Appellant stated many times during interviews that she drove to various places over the border but never provided a driver's license. She also indicated that she attended a family practitioner however she had never been issued an OHIP card.

[41] In a letter dated July 29, 2015 (p. GD4-1), D. M., founder, Crossroads Christian Communications Inc., wrote that he first met the Appellant at the time the Christian television program "X X Street" started in June 1977. She was a prayer partner for approximately eighteen years.

[42] In a letter dated November 6, 2015 (p. GD5-1), R. S. wrote that she had been the Appellant's friend since 1963, having worked with her in her sister's and brother's hair salons.

[43] In a letter dated November 6, 2015 (p. GD5-4), R. L. declared that for many years starting in the 1980s she was a customer at P.'s House of Beauty at X X Street X, which is where she met the Appellant. Ms. R. L. added that she still saw the Appellant at the salon's current address in X.

ORAL EVIDENCE

[44] The Appellant told the Tribunal that she has lived in Canada all her life except for occasional trips to the United States to visit her grandfather and attend Christian conferences. Her faith is strong and no one can tell her that Jesus is not the Son of God.

[45] She immigrated to Canada with her father in 1953. She said that her true date of birth was 1939. Asked why there were at least two other dates—1940 and 1943—listed on various documents, she replied that there had been misprint on her driver's license. This simple mistake had caused a lot of confusion, as had her several names. She was born V. C., which an immigration agent translated as "B. L." She hated that name as a girl because it was associated with cows. She adopted the name S. L. a long time ago.

[46] After arriving in Canada, she was placed in regular classes at Swansea Public School, even though she didn't know any English. She wasn't doing well, so her dad took her out and home schooled her, hiring private tutors to instruct her in English. The leaving certificate, dated September 1956, was obtained by Service Canada. She was not sure why it mentioned a transfer to Chicago because she never moved there, although she acknowledged that her two brothers did. They are now American citizens. She speculated that maybe her father thought he was doing something illegal in withdrawing her from school to receive home instruction. She never graduated from high school.

[47] Her father was a successful businessman who owned a lakeside restaurant. After leaving school, she worked with her father for several years until he sold his business. She's not sure when that happened. She is not good with dates; her memory is only good for scripture.

[48] She has never lived in the United States. She has never visited the U.S. for more than six months. Some of her visits have been for extended periods, attending Christian conferences, billeting with families.

[49] She attended the Toronto School of Practical Nursing in 1965 but quit after a while. Her sister is a talented hairstylist who started her own business, P.'s House of Beauty. Originally located in X, it was later moved to X when the family purchased the house at X X Crescent. She obtained a hairdressing license in 1971 but never styled hair. It was not her calling. Instead, she

worked the till and took appointments over the telephone. She also did shampooing and colouring. She worked with her sister until the business closed. She's not sure when that happened.

[50] After that, she had other jobs at Walmart, Food Basics and Bi-Way. She is still working at Winners, although she is currently on leave because of a bad fall.

[51] At the last scheduled hearing, she brought with her a witness, T. T., A friend of the family who would have testified that he had hired her to work at his restaurant, X Avenue, at X and X many years ago.

[52] From an early age, she was different from other children. Her parents encouraged her to volunteer and work with the poor. Her brother had the same calling. They followed U.S.-based ministries headed by O. R., K. C., M. C., B. H. and C. D. All of these preachers have been anointed. They fear God and tell the truth.

[53] She used to regularly travel to the U.S. to attend their conferences, in cities like Orlando and Chicago. She went at least once a year but was never away from Canada for more than a week. She usually combined these journeys with family visits.

[54] The Appellant was asked what ID she showed when crossing the border. She replied that her older brother usually produced his driver's license and that was sufficient. She herself has held an Ontario driver's license for many years, although she can't remember how old she was when she obtained it. She was young.

[55] She obtained a Canadian passport for the first time that she traveled to Europe. She can't remember when that was, but she knows that her last passport was dated 1997. She travelled to Greece and the Holy Land sometime in the early 2000s. Service Canada asked her if she had a Green Card but she didn't even know what that was.

[56] The Appellant was asked why she never complied with Service Canada requests to obtain an ICES Traveler history from Canadian Border Security Agency (CBSA). She replied that it was "impossible." She does recall attending a Social Security office on one of her trips to

the United States to prove that she had never worked there. She waited in an office for three hours while they prepared a letter, which is contained in the hearing file.

[57] She has lived at X X Crescent in X for about 40 years with her sister and two brothers. Although it is registered and her sister's name, it is actually a family home. Her sister keeps a number of pets (seven dogs and a bird) and there is a lot of noise. She can't connect with the heavenly father in such a place. Since 2003, she has rented a room at X X Crescent and goes there when she needs privacy to do her volunteer work. The room is fully furnished with a bed, bathroom and shared kitchen, and she spends nights there on occasion.

[58] If her landlord, G. O., said that she was in Illinois for two years, he is lying, or maybe the Service Canada investigator is lying. She always pays her rent by money order and those payments show up in her bank statements. She has never paid in cash even though her landlord wanted her to. It is true that she uses the premises to store some items, but they consist of boxes of Bibles, tapes and pamphlets stored in the garage—materials that she uses in her missionary work.

[59] She did have an OHIP card at one time but she misplaced it. Throughout her life she has preferred to rely on God to deal with her health issues. She only applied for another OHIP card because the Service Canada investigator was harassing her. She still doesn't go to a doctor or a dentist—only if it is absolutely necessary.

[60] She has been accused of all kinds of things that aren't true. She has spent a lot of money making her case. She doesn't think that Service Canada has been fair.

SUBMISSIONS

[61] The Appellant submitted that she qualifies for a full OAS pension because:

- (a) She is a Canadian citizen and has resided continuously in this country since arriving here as a girl in February 1953;
- (b) Unfounded suspicions were raised because she could not afford to buy her own home;

- (c) She is being discriminated against because she never applied for a health card based on her religious beliefs. She sees doctors only when necessary and prefers to rely on God.

[62] The Respondent did not appear at the hearing, but in a written submission dated June 25, 2015 (p. GD3-1), it argued that the Appellant is not entitled to an OAS pension because:

- (a) Although she provided proof of entry to Canada in 1953, she was unable to offer any evidence of her continued residence. Canadian citizenship is not evidence of continuing residence of Canada;
- (b) There is strong evidence that the Appellant permanently left Canada in 1956 and moved to Chicago, where she has lived ever since, occasionally returning to the Toronto area to work periodically for her sister's hair salon;
- (c) Her contributions to the Canada Pension Plan have been sporadic and minimal and many of her earnings were as a result of self-employment;
- (d) She has been invited on several occasions to furnish documentary evidence of her travel history, as well as ties to Canada such as a provincial health card or driver's license, but has consistently failed to do so.

ANALYSIS

[63] The Tribunal carefully considered the Appellant's submissions but found no evidence that he resided in Canada after the age of 18. Subsection 3(2) of the OAS Act requires an applicant for a partial OAS pension to have attained the age of 65 and have at least ten years of residency in Canada at the time of application. Case law has held that residence—whether someone makes his home and ordinarily lives in Canada—is a question of fact and depends on the circumstances of each case. The following are among the factors that may offer guidance in determining whether a claimant resides in Canada:

- (a) Ties in the form of personal property such as land, businesses, furniture, a car, a bank account and credit cards;

- (b) Social ties in Canada (for example, participation in professional organizations);
- (c) Other ties (such as health insurance, a driver's license, rent, a lease, a mortgage, property tax statements, insurance policies, contracts, passport declarations, and provincial or federal tax returns);
- (d) Ties in another country;
- (e) Regularity and length of stay in Canada, and the frequency and length of absences from Canada; and
- (f) The person's mode of living, or whether the person living in Canada is sufficiently deep-rooted and settled.

Canada (Minister of Human Resources Development) v. Ding, 2005 FC 76 and *Singer v. Canada (Attorney General)*, 2010 FC 607, confirmed 2011 FCA 178).

[64] The Tribunal carefully considered all relevant evidence and concluded that, on a balance of probabilities, the Appellant was Canadian resident within the meaning of the OAS Act after she turned 18.

[65] The Appellant is an unusual individual whose life is entirely governed by her faith. Her religious devotion, coupled with her unusual dependence on her family, has led her to forego many of the accoutrements of contemporary life, including a fixed address, health card and driver's license. It appears her unconventional lifestyle raised doubt among the Respondent's staff that she was fraudulently claiming residence in Canada.

[66] It must be said at the outset that the Appellant was a poor witness on her own behalf. Her memory was hazy at best, and she delivered her testimony with a barely-concealed sense of grievance. That said, the Tribunal found her essentially credible, if confused, and in the end not even her evasions and contradictory testimony outweighed the documentary evidence she had gathered showing a long and deep-rooted connection to Canada.

[67] Even the Appellant's name and age were variable, and one cannot help but suspect that the lack of clarity over whether she was born in 1939, 1940 or 1943, or whether her name was

“V. C.,” “B. C.,” “B. L.” or “S. L.” contributed to the suspicion with which her file was handled. It is fairly well known that ages and names are sometimes subject to change during the immigration process, although the Tribunal was satisfied that “S. L.” and “B. C.” were one and the same person, most likely born in Greece in April 1939, as indicated in her Record of Landing from February 1953.

[68] It is the Respondent’s position that the Appellant permanently ceased to reside in Canada when she was pulled from Swansea Public School in September 1956, as indicated by the notation on the leaving certificate, which suggested that she was transferring to Chicago. Under questioning, the Appellant vigorously denied that she ever lived anywhere in the United States, although she did allow that she had an aunt and uncle in the Chicago area, as well as two brothers who became American citizens. She left school, she said, to work in her father’s restaurant. She speculated that her parents believed they were doing something wrong by putting an end to her education and concocted a rationale for taking her out of school.

[69] Although the Tribunal found it hard to believe that the Appellant would not have remembered the precise circumstances that led to her departure from school, her theory did have a certain plausibility. Moreover, the file contained documents that linked her to Canada in nearly every successive decade, among them:

- A birth certificate dated 1958 that, having been printed in both English and French, was clearly obtained in Canada;
- A certificate dated 1965 from a Toronto-based career college;
- City of Toronto hairdressing licenses dated 1971;
- A business card, by appearance vintage 1960s or 1970s, establishing that the Appellant’s sister ran a hair salon on X Street X in X (years later shifted to X);
- A letter from a well-known television pastor attesting to her participation in his ministry as early as 1977, continuing for the following 18 years;
- Bank books going back as far as 1991 showing regular, if not frequent transactions.

[70] The most significant evidence of the Appellant's continuing association with Canada was provided by the Respondent itself—the Record of Earnings showing employment and self-employment income dating as far back as 1966, with at least something reported in almost every year until 2000, with only 1968-70 excepted. While it is true that her earnings in many years were modest, usually ranging from \$3,000 to \$8,000 annually, they nonetheless suggested the Appellant performing real and significant work in this country for many years. In its submissions, the Respondent theorized that the Appellant worked at her sister's salon during occasional visits from the United States, but the Tribunal found it unlikely that such sums could be earned itinerantly over a sustained period spanning decades. While it is true that the Appellant was working for much of that time for a related party, it is also clear that P.'s House of Beauty was a genuine and established business, and her sister was presumably not interested in paying someone wages unless value was received in return.

[71] The Appellant also provided nearly 20 years of income tax summaries, which showed regular employment income—presumably earned at Walmart and the other retail stores mentioned by the Appellant—in most years between 1995 and 2012.

[72] Contrary to assertions in the Respondent's investigation notes, the Appellant does hold an Ontario driver's license and was able to produce complete copies of her Canadian passports dating back to 1997. The former was issued in June 2010, but it is likely she became licensed much earlier than that. The latter showed no travel abroad, other than a four-month trip to Greece in 2007. It is unclear why the Appellant took so long to produce these documents (delays that only served to further arouse the Respondent's suspicions), but it is a fact that, eventually, she did.

[73] There is no evidence that the Appellant has ever been registered with Ontario Public Health Insurance, but it was abundantly clear during testimony that the Appellant is a devotee of evangelical preachers, many of whom purport to be faith healers. The Tribunal accepted that the Appellant is one of those rare individuals who genuinely believes she can do without medical care.

[74] The Appellant apparently went to some effort to obtain a letter from the U.S. Social Security Administration on one of her visits to Illinois, but the Tribunal gave it limited weight

because it merely said that she had no outstanding claims and said nothing about whether there was any record of U.S. earnings or contributions to that system. That said, given her extensive work history in Canada, it seemed unlikely that she had worked in the U.S. and no U.S. social security number was referenced in the letter.

[75] The Respondent based its decision in part on the lack of information documenting the Appellant's travel to the United States, but the Tribunal declined to draw a negative inference from the fact that she never requested records from the CBSA. First, the Appellant made it clear that whenever she went to the United States, she did so by automobile, and it is well known that for many years one could cross the border with only a government-issued identity card. Passports were not required until 2009, and it was unlikely that an ICES report would have proved anything one way or the other. In any case, the Appellant did eventually comply with the Respondent's request for her recent Canadian passports, but they showed only one trip overseas between 2002 and 2013.

[76] Few people retain extensive records of their lives and finances, and as the years pass, much paperwork is inevitably discarded or lost. Given that, it is remarkable that the Appellant was able to gather as much documentary evidence as she did in support of her claim. If the Respondent is alleging fraud, it was an unusually elaborate and long-sustained fraud.

[77] Another question in this appeal was the Appellant's residential address and the nature and purpose of her rented room at X X Crescent. The Appellant claimed to live in the "family home" listed in her sister's name at X X Crescent in X, and the Respondent launched its investigation when it discovered that several siblings shared the same address. The Integrity Unit's suspicions were heightened when it emerged that the Appellant kept separate rented premises, although it was not immediately clear to the Tribunal why this information would necessarily raise doubt about her Canadian residency. It is true that the responses of G. O., the Appellant's landlord, were inconsistent and obviously coached by the Appellant, but this did not, in itself, mean that she was attempting to perpetrate a fraud. A review of the Appellant's bank statements satisfied the Tribunal that she was in fact paying a monthly rent. The Respondent suspected that she was using the room only for storage (and she confirmed that she did in fact keep boxes of religious materials in the house), but it is difficult to understand why

an elderly woman with a limited income would find it worthwhile to pay \$500 per month for that purpose when she was able to avail herself of her sister's house nearby (or alternatively pay a lesser fee for a commercial storage locker). Even if the Appellant was living full-time at X, she was still nonetheless a resident of Canada. Under questioning, the Appellant testified that she took the room on X because she occasionally needed peace and quiet away from her siblings and their pets, a reasonable enough explanation, in the view of the Tribunal.

[78] There is no question that the Appellant's behaviour during the investigatory process did not always make sense and her attempts to explain her life have at times been confusing and counterproductive. Still, it must be kept in mind that the Appellant is an elderly woman, unsophisticated in the ways that government bureaucracies operate, who has throughout her life followed a singular path. In the end, the Tribunal was satisfied that what remained of her paper trail proved that she has lived in Canada for her entire adult life.

[79] In light of the evidence presented, the Tribunal concluded that the Appellant has been a resident of Canada, within the meaning of the OAS Act, since turning 18 in 1957. For that reason, the Tribunal determined that the Appellant was entitled to a full OAS pension from April 2004 onward and was therefore not obligated to repay the Respondent monies it claimed were owing.

CONCLUSION

[80] The appeal is allowed.



Member, General Division