



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *K. P. v Minister of Employment and Social Development*, 2017 SSTGDIS 205

Tribunal File Number: GP-15-4423

BETWEEN:

K. P.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Patrick O'Neil

DATE OF DECISION: January 20, 2017

REASONS AND DECISION

[1] The Appellant's application for an *Old Age Security* (OAS) pension, received by the Respondent on March 6, 2013, was approved effective February 2014, the month after the Appellant attained 65 years of age. The first OAS pension payment was issued to the Appellant in February, 2014. The Appellant's request to cancel his OAS pension was received by the Respondent on April 23, 2015. The Respondent denied the Appellant's request to cancel his OAS pension at the initial level and on November 20, 2015 denied the request at the reconsideration level. The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal).

[2] This appeal was decided on the basis of the documents and submissions filed for the following reasons:

- a) The member has decided that a further hearing is not required.
- b) The issues under appeal are not complex.
- c) There are no gaps in the information in the file or need for clarification.
- d) Credibility is not a prevailing issue.
- e) This method of proceeding respects the requirement under the Social Security Tribunal Regulations to proceed as informally and quickly as circumstances, fairness and natural justice permit.

THE LAW

[3] Subsection 9.3(1) of the *Old Age Security Act* (OASA) provides that an OAS pensioner may, within the prescribed time after payment of the pension has commenced, request cancellation of that pension.

[4] Section 26.1(1) of the *Old Age Security Regulations* (OAS Regulations) provides that for the purposes of Subsection 9.3(1) of the OASA, a request for cancellation of a pension shall be made to the Respondent in writing no later than six months after the day payment of the pension begins.

ISSUE

[5] In this case, the Tribunal must decide if the Appellant can cancel his OAS pension which commenced to be paid in February 2014, the month after he attained 65 years of age.

EVIDENCE

[6] The Appellant attained sixty-five years of age on January 11, 2014. The Appellant's application for an OAS pension, received by the Respondent March 6, 2013 was approved effective February 2014, the month after he attained 65 years of age. The first OAS pension payment was issued to the Appellant in February, 2014. The Appellant's request to cancel his OAS pension was received by the Respondent on April 23, 2015.

SUBMISSIONS

[7] The Appellant submitted that he was not provided any information by the Respondent, and was not otherwise aware, that he could defer commencement of the OAS pension, or request a cancellation of the pension, prior to April 21, 2015. He submitted he requested cancellation of the OAS pension as soon as he became aware that he could make such request. He submits he is entitled to cancel his OAS pension.

[8] The Respondent submitted that the Appellant is not permitted to cancel his OAS pension, as his request to cancel his OAS pension was made more than six months after the day on which payment of his OAS pension began.

ANALYSIS

[9] The Appellant's first OAS pension payment was made in February, 2014. The Appellant's request to cancel his OAS pension was received by the Respondent on April 23, 2015, which is more than six months after the day on which payment of the Appellant's OAS pension began.

[10] In accordance with subsection 9.3(1) of the OASA and section 26.1.(1) of the OAS Regulations, the Appellant cannot cancel his OAS pension.

[11] In *Canada (MHRD) v. Reisinger (Estate)*, 2004 FC 893, the Federal Court held the Respondent has no obligation to warn an applicant of a deadline clearly outlined in the OAS Act.

[12] The Tribunal is created by legislation and, as such, it has only the powers granted to it by its governing statute. The Tribunal is required to interpret and apply the provisions as set out in the OASA, and the OAS Regulations, and is bound by decisions of the Federal Court. The Tribunal cannot use the principles of equity or consider extenuating circumstances to grant more time to request cancellation of an OAS pension than is prescribed by the OASA and OAS Regulations.

CONCLUSION

[13] The appeal is dismissed.

Patrick O'Neil
Member, General Division - Income Security