



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *G. L. v Minister of Employment and Social Development*, 2017 SSTGDIS 213

Tribunal File Number: GP-15-1801

BETWEEN:

**G. L.**

Appellant

and

**Minister of Employment and Social Development  
(formerly Minister of Human Resources and Skills Development)**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security Section**

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DECISION BY: Antoinette Cardillo

DATE OF DECISION: February 27, 2017

## REASONS AND DECISION

### INTRODUCTION

[1] The Respondent stamped the Appellant's application for an Old Age Security (OAS) pension on November 22, 2011. The Respondent granted the OAS pension with an effective date in August 2012, the month after the Appellant turned 65. The Appellant also filed an application for the Guaranteed Income Supplement (GIS), which the Respondent received on June 26, 2012. He was granted the GIS on September 21, 2012, with payment retroactive to August 2012. The Appellant requested a reconsideration of the amount of his benefits. The Respondent upheld its initial decision. The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal).

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

- a) There were no gaps in the information in the file or need for clarification;
- b) Credibility was not a prevailing issue; and
- c) This method of proceeding respects the requirement under the *Social Security Tribunal Regulations* to proceed as informally and quickly as circumstances and the considerations of fairness and natural justice permit.

### THE LAW

[3] Section 7(2) of the *Old Age Security Act* (OAS Act) states the following:

#### **Quarterly adjustment of basic amount of full pension**

**7(2)** Where a full monthly pension has been authorized to be paid to a person, the amount of the pension shall be adjusted quarterly, in such manner as may be prescribed by regulation, so that the amount that may be paid to that person for a month in any payment quarter commencing after March 31, 1985 is the amount obtained by multiplying

(a) the amount of the pension that might have been paid to that person for a month in the three month period immediately before that payment quarter

by

(b) the ratio that the Consumer Price Index for the first adjustment quarter that relates to that payment quarter bears to the Consumer Price Index for the second adjustment quarter that relates to that payment quarter.

[4] Section 12(2) of the OAS Act states the following:

**Indexation**

**12(2)** Subject to subsections (1.1) and (1.2), the amount of the supplement that may be paid to a pensioner for any month in any payment quarter commencing after June 30, 2005 is the amount obtained by multiplying

(a) the maximum amount of the supplement that might have been paid to the pensioner for any month in the three-month period immediately before that payment quarter

by

(b) the ratio that the Consumer Price Index for the first adjustment quarter that relates to that payment quarter bears to the Consumer Price Index for the second adjustment quarter that relates to that payment quarter,

minus one dollar for each full two dollars of the pensioner's monthly base income.

[5] Section 13 of the OAS Act states the following:

**Calculation of income**

**13** For the purposes of determining the amount of supplement that may be paid to a pensioner, the income for a calendar year of a person or an applicant is the income of that person or applicant for that year computed in accordance with the *Income Tax Act*.

[6] Sections 9(1) and (2) of the *Old Age Security Regulations* (OAS Regulations) state the following:

**Determination of Average Consumer Price Index for Period of Months**

**9(1)** The average of the Consumer Price Index for Canada for a period of months shall be determined by dividing the aggregate of the Consumer Price Index for Canada, as published by Statistics Canada under the authority of the *Statistics Act*, for each month in that period by the number of months in that period.

**(2)** Where the quotient obtained pursuant to subsection (1) contains a fraction that is less than 1, such fraction shall be expressed as a decimal fraction of two digits after the decimal point and

(a) the second digit after the decimal point shall be dropped if that digit is less than 5; or

(b) the first digit after the decimal point shall be increased by one and the second digit shall be dropped if the second digit is 5 or greater than 5.

[7] Sections 13(a) and (b) of the OAS Regulations state the following:

**Month in which Loss of Income Occurs**

**13** For the purposes of section 14 of the Act,

(a) the month in which an applicant or an applicant's spouse or common-law partner

(i) ceases to hold an office or employment shall be the month in which the last day in respect of which he receives income from that office or employment falls, or

(ii) ceases to carry on a business shall be the month in which the last day on which he actively carries on that business falls; and

(b) the month in which an applicant or an applicant's spouse or common-law partner suffers a loss of income due to termination or reduction of pension income shall be the month in which that termination or reduction actually occurs.

## **ISSUE**

[8] The issue before the Tribunal in this appeal is whether the Appellant qualifies for an OAS pension and GIS amount greater than the amount he is receiving.

## **EVIDENCE**

[9] The Appellant's OAS pension application was stamped on November 22, 2011, and his GIS application was stamped on June 26, 2012. The Appellant was granted a full OAS pension in August 2012, the month after he turned 65. He was granted the GIS on September 21, 2012, with payment retroactive to August 2012.

[10] The Appellant retired on June 30, 2012.

[11] The Respondent received a declaration of post-retirement income form on October 12, 2012, and processed it on December 19, 2012. According to the evidence on file, since the estimated calculation was more advantageous than the income from the 2011 base calendar year, the Appellant was granted an additional retroactive amount of \$1,255.00 for the period from July 2012 to December 2012.

[12] The Respondent received a second declaration of post-retirement income form on April 4, 2013, and processed it on June 13, 2013. Since the estimated 2013 calculation was more advantageous than the income from the 2012 base calendar year, the Appellant was granted an additional amount based on his estimated 2013 income as of July 2013.

## **SUBMISSIONS**

[13] The Appellant argues that the cost of living is too high and asks for his benefits to be indexed.

[14] The Respondent argues that the Appellant received the proper amount of GIS benefits based on his real and estimated income, without loss of eligibility. The Respondent understands the Appellant's complaints, but it has no power over the cost-of-living indexes. The OAS pension and GIS are reviewed quarterly and may be indexed each time.

## ANALYSIS

[15] Based on the evidence in the file:

- the Appellant's application for an OAS pension was stamped on November 22, 2011;
- the Appellant retired on June 30, 2012;
- the Appellant has been receiving the OAS pension since August 2012, the month after he turned 65;
- the Appellant was granted the GIS on September 21, 2012, with payment retroactive to August 2012;
- the Appellant was granted an additional retroactive amount of \$1,255.00 for the period from July 2012 to December 2012, following the estimated calculation that was more advantageous than the income from the 2011 base calendar year; and
- the Appellant was also granted an additional amount based on his estimated 2013 income as of July 2013, following the estimated 2013 calculation that was more advantageous than the income from the 2012 base calendar year.

[16] Section 7(2) of the OAS Act states the following:

### **Quarterly adjustment of basic amount of full pension**

**7(2)** Where a full monthly pension has been authorized to be paid to a person, the amount of the pension shall be adjusted quarterly, in such manner as may be prescribed by regulation, so that the amount that may be paid to that person for a month in any payment quarter commencing after March 31, 1985 is the amount obtained by multiplying

(a) the amount of the pension that might have been paid to that person for a month in the three month period immediately before that payment quarter

by

(b) the ratio that the Consumer Price Index for the first adjustment quarter that relates to that payment quarter bears to the Consumer Price Index for the second adjustment quarter that relates to that payment quarter.

[17] Sections 12(2) and 13 of the OAS Act state the following:

**Indexation**

**12(2)** Subject to subsections (1.1) and (1.2), the amount of the supplement that may be paid to a pensioner for any month in any payment quarter commencing after June 30, 2005 is the amount obtained by multiplying

(a) the maximum amount of the supplement that might have been paid to the pensioner for any month in the three-month period immediately before that payment quarter

by

(b) the ratio that the Consumer Price Index for the first adjustment quarter that relates to that payment quarter bears to the Consumer Price Index for the second adjustment quarter that relates to that payment quarter,

minus one dollar for each full two dollars of the pensioner's monthly base income.

**Calculation of income**

**13** For the purposes of determining the amount of supplement that may be paid to a pensioner, the income for a calendar year of a person or an applicant is the income of that person or applicant for that year computed in accordance with the *Income Tax Act*.

[18] It follows that, based on the evidence on file and the relevant statutory provisions of the OAS Act, the Appellant was granted the proper amounts of the OAS pension and GIS benefits.

[19] The Tribunal cannot increase the amount of his benefits. As a statutory entity, the Tribunal has only the powers that its home statute gives it. The Tribunal cannot apply the principles of equity or consider extenuating circumstances to ignore the provisions of the OAS Act. The Tribunal interprets and applies the provisions as they are set out in the OAS Act.

**CONCLUSION**

[20] The appeal is dismissed.

Antoinette Cardillo  
Member, General Division – Income Security