



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. P. v. Minister of Employment and Social Development*, 2017 SSTADIS 593

Tribunal File Number: AD-16-1337

BETWEEN:

A. P.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Janet Lew

DATE OF DECISION: November 2, 2017

DECISION AND REASONS

DECISION

[1] The appeal is allowed.

OVERVIEW

[2] The Appellant seeks an Old Age Security pension. The General Division determined that he had failed to qualify for an Old Age Security pension because he did not have sufficient years of Canadian residency under the *Old Age Security Act*. I granted leave to appeal from the General Division's decision, as I was satisfied that the General Division may have failed to consider the Appellant's employment and/or missionary work outside of Canada, under subsection 21(5) of the *Old Age Security Regulations*.

ANALYSIS

[3] Under subsection 21(5) of the *Old Age Security Regulations*, certain absences from Canada are deemed not to have interrupted a person's residence or presence in Canada, provided also that he or she meets certain requirements. These exceptions include cases in which a person is employed or engaged out of Canada "as a missionary with any religious group or organization" or "as a worker in lumbering, harvesting, fishing or other seasonal employment."

[4] The Appellant argues that his absences outside of Canada should count towards his residency, because he falls into these two exceptions under subsection 21(5) of the *Old Age Security Regulations*. The Appellant maintains that there was evidence before the General Division that he had been employed in the lumbering industry for a Canadian corporation and that he had also served as a missionary. He described some of his missionary work in his recent submissions of October 31, 2017, although I make no findings in regards to the nature of this work.

[5] The General Division found that the Appellant was "neither in the employ of a Canadian agency or corporation nor was he performing services as a missionary" and concluded that his absences therefore did not fall within subsection 21(5) of the *Old Age*

Security Regulations. However, the General Division did not analyze any of the evidence regarding the Appellant's purported missionary work or his employment by a Canadian corporation to explain how it found that he could not avail himself of the provisions of subsection 21(5) of the *Old Age Security Regulations*. It is therefore unclear how the General Division concluded that the Appellant was not employment by a Canadian corporation or not doing any missionary work.

[6] The Respondent agrees that the General Division should have addressed the Appellant's alleged employment and missionary work because these two factors could have directly impacted the Appellant's residency. The Respondent is of the position that the matter should be referred to the General Division for a redetermination of the relevant issues. I concur with the Respondent's position in this regard.

DISPOSITION

[7] Given the General Division's error in failing to address the evidence of the Appellant's alleged employment in the lumbering industry and missionary work, the appeal is allowed, and the matter returned to the General Division for a redetermination by a different member.

Janet Lew
Member, Appeal Division