



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *P. H. v. Minister of Employment and Social Development*, 2018 SST 517

Tribunal File Number: AD-18-155

BETWEEN:

**P. H.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Valerie Hazlett Parker

DATE OF DECISION: May 9, 2018

## DECISION AND REASONS

### DECISION

[1] The appeal is dismissed.

### OVERVIEW

[2] P. H. (Claimant) applied for and received a Guaranteed Income Supplement under the *Old Age Security Act*. For the period from June 2013 to October 2014, the amount of this benefit was calculated based on only her income, although she was married. Her husband passed away in February 2014.

[3] In April 2016, the Minister of Employment and Social Development (Minister) advised the Claimant that she had been overpaid the benefit because it should have been calculated based on both her income and her husband's. She appealed this decision to this Tribunal. The Tribunal's General Division summarily dismissed the appeal because it decided that the appeal had no reasonable chance of success. The appeal is dismissed because the General Division made no errors in law or in fact and observed the principles of natural justice.

### PRELIMINARY MATTERS

[4] This appeal was decided on the basis of the documents filed with the Tribunal, after consideration of the following:

- a) The legal issues to be decided are straightforward;
- b) The Claimant wrote in her appeal documents that she would not say anything else;
- c) The Minister did not respond to the Notice of Appeal; and
- d) The *Social Security Tribunal Regulations* require that appeals be disposed of as quickly as the considerations of fairness and natural justice permit.<sup>1</sup>

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<sup>1</sup> *Social Security Tribunal Regulations*, s. 3(1)

## ISSUES

[5] Did the General Division make an error when it decided that it had no authority to decide the issue before it?

## ANALYSIS

[6] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It states that the General Division must summarily dismiss an appeal if it is satisfied that it has no reasonable chance of success.<sup>2</sup> The General Division decision stated this.<sup>3</sup>

[7] I am satisfied that the General Division applied this test to the facts before it. The Federal Court of Appeal instructs that the threshold to summarily dismiss an appeal is high.<sup>4</sup> The question to be answered in such a case is not whether the appeal must be dismissed after considering the facts, the parties' arguments, and the law, but whether the appeal is destined to fail regardless of the evidence or arguments that may be presented.

[8] This case involves the remission of an overpayment of a Guaranteed Income Supplement benefit to the Claimant. Parliament gave authority to the Minister to remit all or any portion of an overpayment.

[9] The Social Security Tribunal is a statutory tribunal and as such only has legal authority that is granted to it in the DESD Act. The authority to remit or reduce overpayments was not given to this Tribunal. Therefore, the General Division made no error when it determined that it had no authority to deal with the appeal and summarily dismissed the Claimant's appeal.

## CONCLUSION

[10] The appeal is therefore dismissed.

Valerie Hazlett Parker  
Member, Appeal Division

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<sup>2</sup> *Department of Employment and Social Development Act*, s. 53

<sup>3</sup> General Division decision para. 3

<sup>4</sup> *Lessard-Gauvin v. Canada (Attorney General)*, 2013 FCA 147

METHOD OF PROCEEDING:	On the record
SUBMISSIONS:	P. H., Appellant