



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. M. v. Minister of Employment and Social Development and J. D.*, 2018 SST 716

Tribunal File Number: AD-18-265

BETWEEN:

P. M.

Applicant

and

Minister of Employment and Social Development

Respondent

and

J. D.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: July 5, 2018

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] P. M. (Claimant) began to receive the Guaranteed Income Supplement (GIS) as a single pensioner in December 2011. In 2015 the Minister of Employment and Social Development investigated the Claimant's marital status and decided that he had been in a common-law relationship with J. D. since at least 2009 and reassessed his entitlement to the GIS. The Claimant appealed this decision to the Tribunal.

[3] The Tribunal's General Division held a hearing and dismissed the Claimant's appeal. Leave to appeal this decision to the Tribunal's Appeal Division is dismissed because the appeal has no reasonable chance of success based on the General Division having made an error in law.

ANALYSIS

[4] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It sets out only three grounds of appeal that can be considered, namely that the General Division failed to observe a principle of natural justice or made a jurisdictional error, made an error in law, or based its decision on an erroneous finding of fact made in a perverse or capricious manner or without regard for the material before it.¹ In addition, leave to appeal is to be refused if the appeal has no reasonable chance of success.² Therefore, to be granted leave to appeal, the Claimant must present a ground of appeal under the DESD Act that has a reasonable chance of success on appeal.

[5] The Claimant claims that the General Division made an error in law when it confirmed that he was in a common-law relationship. He contends that he and J. D. have the same address and can't afford to live on their own, that they each pay for their own needs, and that they share the rent but are not common-law partners. The General Division decision summarizes all of the

¹ DESD Act s. 58(1)

² DESD Act s. 58(2)

written and oral evidence given at the hearing. This includes the Claimant's argument that he and J. D. have resided at the same residence only to share costs, not in a common-law relationship.

[6] The General Division decision sets out the relevant law, including the definition of "common-law partner" in the *Old Age Security Act* and court decisions about what a conjugal relationship is. The General Division decision states that there is evidence that was supportive of a common-law relationship and evidence that was not. The General Division was persuaded by the evidence that the Claimant and J. D. were in a common-law relationship, including that they have resided together since 1995, they have shared at least one residence with only one bedroom, they moved from X to X and back to X together, they attend their family physician together, they attend family events together, and that they have not been completely forthcoming about their relationship, including the year they began to reside together.

[7] The General Division correctly set out the law and applied the law to the evidence before it, and made a decision. The General Division gave clear, logical, and intelligible reasons for its decision. Nothing in the General Division decision or the Claimant's application for leave to appeal documents points to any error in law.

[8] I have reviewed the General Division decision and the written record. The General Division also did not overlook or misconstrue any important information.

[9] The appeal does not have a reasonable chance of success.

CONCLUSION

[10] Leave to appeal is refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	P. M., self-represented
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