



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *M. O. v Minister of Employment and Social Development*, 2018 SST 1245

Tribunal File Number: GP-17-1820

BETWEEN:

M. O.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Antoinette Cardillo

DATE OF DECISION: November 27, 2018

DECISION

I determine that the Applicant does not qualify for GIS benefits for a single person for the period from July 2014 to August 2016 for the reasons below.

OVERVIEW

[1] The Respondent received the Applicant's application for an Old Age Security (OAS) pension on December 7, 2009.¹ He was granted the pension, including Guaranteed Income Supplement (GIS) benefits for a single person, starting in December 2010.

[2] The Applicant got married in June 2014, and the Minister readjusted his GIS benefits for the period from July 2014 to August 2016 after his change in marital status. The Applicant was asked to repay an overpayment totalling \$12,035.00. The Applicant requested a reconsideration of the Respondent's decision. The Respondent maintained its initial decision on reconsideration. The Applicant appealed the reconsideration decision to the Social Security Tribunal.

ISSUE

[3] I must determine whether the Applicant is entitled to GIS benefits as a single person calculated based on his income or as a married person based on the spouses' combined income for the payment period from July 2014 to August 2016.

ANALYSIS

[4] The Applicant stated that he was divorced on the OAS pension application that was received on December 7, 2009. He was granted the pension and GIS benefits, which were calculated based on his income as a single person.

[5] The evidence on file shows that the Applicant got married on June 7, 2014.²

[6] The Applicant stated that he was married on the GIS application for the payment period from July 2016 to June 2017.³

¹ GD2-32.

² GD2-25.

[7] The Applicant submitted that he informed the Canada Revenue Agency (CRA) of a change in his marital status on his 2014, 2015, and 2016 tax returns.⁴

[8] The evidence shows that, in July of each year, the Applicant received a GIS renewal notice that indicated the marital status based on which his GIS benefits were paid and that he had to report if the information was inaccurate or if his situation had changed.

[9] Under Part II of the *Old Age Security Act* (OAS Act), the GIS is paid to the recipient of an OAS pension who meets certain conditions. The amount of the GIS depends on the person's income. If the person has a spouse or a common-law partner, the spouse or partner's income is taken into account when the person's GIS entitlement and benefits are determined.

[10] Sections 15(1) and (9) of the OAS Act state the following:

15 (1) Every person by whom an application for a supplement in respect of a payment period is made shall, in the application, state whether the person has or had a spouse or common-law partner at any time during the payment period or in the month before the first month of the payment period, and, if so, the name and address of the spouse or common-law partner and whether, to the person's knowledge, the spouse or common-law partner is a pensioner.

15 (9) Every applicant shall inform the Minister without delay if they separate from, or cease to have, a spouse or common-law partner, or if they had a spouse or common-law partner at the beginning of a month, not having had a spouse or common-law partner at the beginning of the previous month.

[11] The Federal Court⁵ has declared that, under section 15(9) of the OAS Act, it is up to the claimant to report their marital status not only to the CRA but also to the Minister. This requirement exists even without annual notice letters from the Minister stating that an applicant must provide that information. The notice letter was considered a reminder, not a precondition for section 15(9) to apply.

³ GD2-27.

⁴ GD6-2.

⁵ *Barry v Canada (Attorney General)*, [2010 FC 1307 \(CanLII\)](#).

[12] I acknowledge that the Applicant stated on his tax returns that he was married. However, he did not inform the Respondent that his marital status had changed, even though, in July of each year, he received a GIS renewal notice that indicated the marital status based on which his GIS benefits were being paid and that instructed him to contact the Respondent if the information was inaccurate or if his situation had changed.

[13] I therefore determine that the Applicant does not qualify for GIS benefits for a single person from July 2014 to August 2016 because he got married in June 2014. As stated, according to the OAS Act, the amount of the GIS depends on the person's income, and if the person has a spouse or a common-law partner, the spouse or partner's income is taken into account when the person's GIS entitlement and benefits are determined.

CONCLUSION

[14] The appeal is dismissed.

Antoinette Cardillo
Member, General Division – Income Security