



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *A. A. v Minister of Employment and Social Development*, 2019 SST 699

Tribunal File Number: AD-19-460

BETWEEN:

A. A.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Jude Samson

Date of Decision: August 2, 2019

DECISION AND REASONS

DECISION

[1] The application for leave to appeal is refused.

OVERVIEW

[2] A. A. (Applicant) applied for an Old Age Security (OAS) pension in September 2013 and the Guaranteed Income Supplement (GIS) in December 2013. The processing of his applications continued for years.

[3] Finally, in September 2016, the Minister of Employment and Social Development awarded the Applicant a partial OAS pension effective November 2012. Then, in November 2017, the Minister awarded him a GIS effective September 2013, which is when the Applicant resumed permanent residence in Canada.

[4] The Applicant appealed the Minister's decision regarding the start date of the GIS benefits to the Tribunal's General Division.¹ He asked the General Division to award him:²

- a) GIS benefits for November 2012 to August 2013;
- b) \$50,000 in damages for the significant delay in processing his file, which adversely affected his personal life, finances, and health.

[5] The General Division refused the first request and dismissed the Applicant's appeal. However, the General Division did not address the issue of damages.

[6] As a result, the Claimant filed an application for leave to appeal the General Division's decision. The Applicant does not dispute the General Division's decision regarding his GIS benefits.³ He is asking me to intervene in his case solely to decide the issue he raised about damages.

¹ The Minister's letter dated November 10, 2017 (GD2-3).

² GD1-4 and GD1-5.

³ AD1.

[7] However, before this case can proceed any further, I must first decide whether to grant leave. I find that the issue of damages that the Applicant raised does not fall within the Tribunal's jurisdiction. Therefore, leave is refused.

ISSUE

[8] Has the Applicant raised an arguable case on which the appeal might succeed?

ANALYSIS

[9] At the Appeal Division, the emphasis is on determining whether the General Division made at least one of the three errors (or grounds of appeal) set out in section 58(1) of the *Department of Employment and Social Development Act* (DESD Act). Therefore, in this case, I can examine whether the General Division refused to exercise its jurisdiction.⁴

[10] Most cases before the Appeal Division follow a two-step process: the leave to appeal stage and the merits stage. This appeal is at the leave to appeal stage, meaning that permission must be granted for it to move forward. This is a preliminary hurdle aimed at filtering out cases that have no reasonable chance of success.⁵ The legal test that applicants need to meet at this stage is a low one: Is there any arguable case on which the appeal might succeed?⁶

Has the Applicant raised an arguable case on which the appeal might succeed?

[11] No, I find that this case is bound to fail.

[12] Although it would have been preferable for the General Division to address at least the issue of damages, it clearly did not make an error because it could not have ordered the Minister to pay the Applicant that kind of sum. Rather, in this case, the Tribunal's jurisdiction is limited to issues concerning the denial of a benefit available under the *Old Age Security Act* (OAS Act) or its amount.⁷

⁴ *Department of Employment and Social Development Act* (DESD Act), s 58(1)(a).

⁵ DESD Act, s 58(2).

⁶ *Osaj v Canada (Attorney General)*, 2016 FC 115; *Ingram v Canada (Attorney General)*, 2017 FC 259.

⁷ *Old Age Security Act*, ss 27.1 and 28.

[13] The Applicant is asking for sums that fall outside the benefits available under the OAS Act. However, neither the DESD Act nor the OAS Act provides for benefits for victims of an excessive delay. As a result, the Applicant's issue clearly falls outside the Tribunal's jurisdiction.

CONCLUSION

[14] As a statutory entity, the Tribunal has only the powers that the law gives it. However, the Applicant's issue about compensation does not fall within the Tribunal's jurisdiction. Therefore, I find that the appeal has no reasonable chance of success.

[15] The application for leave to appeal is refused.

Jude Samson
Member, Appeal Division

REPRESENTATIVE:	A. A., self-represented
-----------------	-------------------------