



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *The Estate of JP v Minister of Employment and Social Development*, 2019 SST 1713

Tribunal File Number: GP-19-1161

BETWEEN:

The Estate of J. P.

Appellant (Claimant)

and

Minister of Employment and Social Development

Minister

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

Decision by: Pierre Vanderhout

Date of decision: October 7, 2019

DECISION

[1] My decision of September 26, 2018, is confirmed.

OVERVIEW

[2] After an oral hearing, I issued a decision in this matter on September 26, 2018 (the “September 2018 Decision”). The Estate Liquidator, N. P., appealed the September 2018 Decision to the Appeal Division. On July 9, 2019, the Appeal Division dismissed all but one of the grounds of appeal. However, the Appeal Division found that the Estate Liquidator was not given an opportunity to file new documents after the hearing. As a result, the Appeal Division sent the matter back to me for reconsideration. The reconsideration is limited to the Claimant’s social ties in Canada, and the impact that any new documents and submissions might have on my September 2018 Decision.

PRELIMINARY MATTER

[3] In a letter dated August 27, 2019, I invited the Estate Liquidator to file new documents and submissions about the Claimant’s social ties in Canada, and asked him to clarify the documents he previously filed with the Appeal Division. The Tribunal sent this letter by e-mail to the Estate Liquidator on August 27, 2019, as he had authorized the Tribunal to communicate with him by e-mail. There is no indication that there was any problem with the e-mail or the attached letter. I am satisfied that the Estate Liquidator received the letter dated August 27, 2019.

ISSUE

[4] With respect to the Claimant’s social ties in Canada, do the new documents and submissions affect my September 2018 Decision?

ANALYSIS

[5] In accordance with the Appeal Division’s instructions, I gave the Estate Liquidator until September 23, 2019, to file any new documents and submissions about the Claimant’s social ties in Canada. He was also asked to clarify three documents that he filed with the Appeal Division, but did not exist when I wrote the September 2018 Decision. The Estate Liquidator never

responded to those requests. As a result, the only new documents and submissions are the ones he filed with the Appeal Division in December 2018.

[6] The Estate Liquidator listed many grounds of appeal in those December 2018 appeal materials. However, the Appeal Division said this reconsideration decision must be limited to the Claimant's social ties in Canada and the impact that any new documents and submissions might have on my September 2018 Decision. As a result, I will look at the impact of the following documents (known as the "December 2018 Documents"):

1. The Affirmation dated December 25, 2018, by M. L.¹;
2. The Affirmation dated December 25, 2018, by R. W.²; and
3. The Affirmation dated December 25, 2018, by D. W.³.

[7] I will also consider the submissions made to the Appeal Division that relate to the Claimant's social ties in Canada.⁴

Do the new documents and submissions impact the September 2018 Decision?

[8] For the reasons that follow, the new documents and submissions do not impact the September 2018 Decision.

[9] The Estate Liquidator's submissions to the Appeal Division strongly suggested that evidence beyond the December 2018 Documents was forthcoming. He said a letter stating "that the Claimant was actively engaged in social activities at the Colossos Dodecanesian association has recently been requested".⁵ Later, he said that, "[i]nvolvement in Greek association [*sic*] in Quebec is being sought and will soon be filed, since it is clearly needed to 'sway' a decision".⁶

[10] This shows that, in December 2018, the Estate Liquidator was aware of the importance of such evidence. However, he never submitted any further evidence about the Claimant's social

¹ ADN1-10

² ADN1-11

³ ADN1-12

⁴ The submissions are found at ADN1-6 through ADN1-9.

⁵ ADN1-6

⁶ ADN1-9

ties. No explanation was ever given, and more than nine months have passed since then. As a result, the only new documents for me to consider are the December 2018 Documents.

The December 2018 Documents

[11] The December 2018 Documents were all signed in the same place on the same day. They are essentially identical in appearance, structure and basic wording: the person signing it just had to “fill in the blanks”. In each one, the person had known the Claimant for 18 years, and said the Claimant had resided at the home of T. W. and P. P. (one of the Claimant’s sons) in X, since November 2009. However, other than an implied familiarity with the person who signed the document, there is nothing of substance about the Claimant’s social ties or his community involvement.

[12] No address is given for any of the people who signed the December 2018 Documents, nor is the nature of their relationship (relative, friend, etc.) to the Claimant given. The Estate Liquidator was asked about those relationships on August 27, 2019, but he never responded.

[13] My September 2018 Decision placed some emphasis on the Claimant’s relative lack of community involvement, particularly in comparison to his wife’s involvement with the Colossos group. I also noted that there was no evidence of membership in associations or professional organizations, and a general lack of social ties in Canada.⁷ However, the December 2018 Documents do not affect my findings on any of these issues. They only provide general support for an increased presence in Canada starting in November 2009.

The new submissions

[14] As with the December 2018 Documents, the submissions do not change my findings on the Claimant’s social ties. The nature of the submissions means that they require documentary support in order to have any real persuasive value. However, the new documents do not provide such support. The December 2018 Documents are very vague about social ties.

[15] For example, in the new submissions, the Estate Liquidator said, “the Claimant and his spouse regularly engaged with family members together whether at their home, at relatives’

⁷ See, in particular, paragraphs 18, 19 and 39 of the September 2018 Decision.

homes, or during social activities at the Colossos Dodecanesian association”.⁸ This assertion would carry much more weight if it were supported by some kind of evidence from the Colossos group that specifically referred to the Claimant.

[16] The new submissions also suggest that documents about the Claimant’s social ties were not previously filed because there was already evidence about his wife’s social ties, and they attended the same functions together.⁹ Even if this explanation is accepted, it shows the Estate Liquidator’s awareness that evidence about the Claimant’s own social ties was needed. Such evidence was never provided. Furthermore, the Estate Liquidator previously said the Claimant only engaged in social activities within his community “on a limited basis (unlike his spouse) due to his lack of mobility”. That statement was made on December 23, 2017, and the Estate Liquidator said he was seeking evidence about the Claimant’s own social activities even then.¹⁰

The combined impact of the new submissions and the December 2018 Documents

[17] I have already concluded that neither the new submissions nor the December 2018 Documents affect the September 2018 Decision. I also find that combining them does not affect the September 2018 Decision either. The December 2018 Documents do not overcome the limitations of the new submissions: those documents really speak only to the Claimant’s presence, rather than the extent of his social ties.

CONCLUSION

[18] As the new documents and submissions do not impact the September 2018 Decision, the appeal is dismissed.

Pierre Vanderhout
Member, General Division - Income Security

⁸ ADN1-8

⁹ ADN1-6 to ADN1-7

¹⁰ AD1-8