



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *F. C. v Minister of Employment and Social Development*, 2020 SST 329

Tribunal File Number: GP-18-1931

BETWEEN:

**F. C.**

Appellant (Claimant)

and

**Minister of Employment and Social Development**

Minister

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security Section**

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Decision by: Carol Wilton

Teleconference hearing on: February 18, 2020

Date of decision: February 23, 2020

## **DECISION**

[1] The Claimant is not entitled to the *Guaranteed Income Supplement* (GIS) for the period July 2018 to June 2019.

## **OVERVIEW**

[2] The Claimant applied for the GIS for the period of July 2018 to June 2019. The GIS provides a supplement to the base Old Age Security pension for low-income seniors. The GIS is based on a claimant's income for the previous year computed in accordance with the *Income Tax Act*. The payment period begins on July 1 of one year and ends on June 30 of the next year.<sup>1</sup>

[3] The Minister denied the Claimant's application initially and on reconsideration because the Claimant's income for 2017 was too high for him to qualify for the GIS in the period July 2018 to June 2019. The Claimant appealed to the Social Security Tribunal.

[4] The burden of proof is on the Claimant to show that he is entitled to the benefit.<sup>2</sup>

## **ISSUE**

[5] I must decide whether the Claimant is entitled to the GIS for the payment period of July 2018 to June 2019.

## **ANALYSIS**

[6] The Claimant began receiving the OAS in October 2016.

[7] In 2016, the Canada Revenue Agency (CRA) wrongly denied a medical expense claim the Claimant made on his tax return. As a result, the CRA assessed the Claimant's total income for 2016 at an amount above the allowable income threshold for GIS for the July 2017 to June 2018 payment period. In August 2018, the CRA reassessed the Claimant's 2016 tax return, to show a

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<sup>1</sup> Subsection 2(c), sections 10 and 13 of the OAS Act

<sup>2</sup> *De Carolis v. Canada (Attorney General)*, [2013 FC 366](#)

total income for 2016 of zero.<sup>3</sup> In February 2018, the Minister retroactively restored the Claimant's GIS for 2017.<sup>4</sup>

[8] In later 2017 and early 2018, the Claimant received no GIS payments.<sup>5</sup> In order to survive financially, he had to withdraw \$9,379 from his Registered Retirement Savings Plan (RRSP).<sup>6</sup> The result was that his income was again above the allowable threshold for the payment period of July 2018 to June 2019. His income for 2017 was \$21,757, which was over the allowable GIS amount of \$18,096. The Minister therefore denied him the GIS for July 2018 to June 2019.<sup>7</sup>

[9] The Claimant stated that he used funds from his RRSP in 2017 only because of the error the CRA made in denying his medical expense deduction. There is no reason to doubt the Claimant's assertion.

[10] At the hearing, the Claimant expressed his utter frustration with the "domino effect" of the CRA's mistake. Unless something is done to restore him to the position he should be in, he will have to continue withdrawing funds annually from his RRSP (now his RRIF) to make ends meet, thereby losing entitlement to the GIS. Since 2016, he has been engaged in constant conversations with government employees, none of whom has been able to offer a solution to his predicament. He believes that it is extremely unfair for pensioners to receive this kind of treatment.

[11] The Claimant appealed the Minister's decision to the Tax Court of Canada (Tax Court).<sup>8</sup> He wanted an adjustment to the calculation of his income for the purpose of determining entitlement to the GIS for the July 2018 to June 2019 payment period. In January 2020, the Tax Court determined that the Claimant's income for the 2017 was calculated correctly.

[12] I must respect the conclusion of the Tax Court that the Claimant's income was calculated correctly. I say this because the Tax Court has the power to make decisions on issues that relate

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<sup>3</sup> Correspondence to the Claimant from the CRA, August 15, 2018: GD1-11

<sup>4</sup> GD2-4

<sup>5</sup> GD2-4

<sup>6</sup> GD2-9

<sup>7</sup> GD2-11, Reconsideration Decision Letter, July 12, 2018

<sup>8</sup> *Cassidy v. Canada (ESDC)*, 2020 TCC 1

to income and I do not.<sup>9</sup> As a result, the Claimant cannot receive the GIS for the period July 2018 to June 2019.

## **CONCLUSION**

[13] I find that the GIS entitlement calculation was made in accordance with the OAS Act. The Claimant is not entitled to GIS benefits for the payment period of July 2018 to June 2019 because his income exceeded the maximum allowed for receiving benefits.

[14] The appeal is dismissed.

Carol Wilton  
Member, General Division - Income Security

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<sup>9</sup> Subsection 28(2), OAS Act