



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. R. v Minister of Employment and Social Development*, 2020 SST 315

Tribunal File Number: AD-20-228

BETWEEN:

S. R.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: April 17, 2020

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] S. R. (Claimant) came to Canada in 1965 and later became a Canadian citizen. He first applied for an Old Age Security Act pension (OAS) in 2007. This application was refused. The Claimant applied again for OAS in 2018. The Minister of Employment and Social Development approved this pension and began to pay OAS to the Claimant in April 2018.

[3] The Claimant appealed the Minister's decision regarding when the payment of OAS should begin to the Tribunal. The Tribunal's General Division allowed the appeal and decided that payment of OAS should begin in May 2017.

[4] The Claimant seeks leave to appeal the General Division decision to the Tribunal's Appeal Division. Leave to appeal is refused because the Claimant has not presented a ground of appeal that falls under the *Department of Employment and Social Development Act* (DESD Act) and on which the appeal has a reasonable chance of success.

GROUND OF APPEAL

[5] The DESD Act governs the Tribunal's operation. It provides rules for appeals to the Appeal Division. An appeal is not a re-hearing of the original claim. Instead, I must decide whether the General Division:

- a) failed to provide a fair process;
- b) failed to decide an issue that it should have, or decided an issue that it should not have;
- c) made an error in law; or
- d) based its decision on an important factual error.¹

¹ This paraphrases the grounds of appeal set out in s. 58(1) of the DESD Act

[6] However, before I can decide an appeal, I must decide whether to grant leave (permission) to appeal. The DESD Act says that leave to appeal must be refused if the appeal does not have a reasonable chance of success.² Therefore, to be granted leave to appeal the Claimant must present at least one ground of appeal (reason for appealing) that falls under the DESD Act and on which the appeal has a reasonable chance of success.

ANALYSIS

[7] In the application to the Appeal Division the Claimant indicates that the General Division failed to provide a fair process, made an error in law and based its decision on an important factual error. He does not provide specifics for these grounds of appeal.

[8] However, the Claimant writes in the body of the application that his appeal should be allowed because the General Division did not listen to his arguments and reasons why his OAS should begin to be paid to him as of his 65th birthday. He says that he filed an application for the pension at that time as well as all of the information requested to prove that he resided in Canada.

[9] However, the General Division decision states that it could not consider the 2007 application because the Claimant had not appealed the Minister's apparent refusal of it. The only application that was properly before the General Division was the one that the Claimant made in 2018. The General Division decision explains that the legislation only permits 11 months retroactive payment from when a person applies for OAS.³ It applied this to the facts, and decided that the Claimant's OAS should begin in May 2017.⁴

[10] That the Claimant disagrees with the General Division decision is not a ground of appeal under the DESD Act. The Claimant's argument does not point to the General Division having made an error in law.

² DESD Act s. 58(2)

³ General Division decision at para. 13

⁴ Ibid. at para. 14

[11] There is no suggestion that the General Division failed to provide the Claimant with a fair process.

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

CONCLUSION

[13] Leave to appeal is refused. The Claimant did not present a ground of appeal that falls under the DESSD Act.

[14] It may be that Service Canada provided the Claimant with erroneous advice, or made an administrative error regarding his 2007 application. The Claimant can ask that Service Canada investigate this by contacting it directly.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	S. R., Self-represented
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