



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *PN v Minister of Employment and Social Development*, 2020 SST 1162

Tribunal File Number: GP-20-198

BETWEEN:

**P. N.**

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: Adam Picotte

Date of decision: August 10, 2020

## **DECISION**

[1] The Claimant is not entitled to an extension of time to request a reconsideration of the Minister's decision to award her an Old Age Security (OAS) benefit based upon 3/40 of a total benefit.

## **OVERVIEW**

[2] The Minister received the Claimant's application for an OAS benefit on June 19, 2008. The Minister allowed the OAS benefit on the basis of a 3/40 award on September 24, 2009. On September 17, 2019 the Claimant requested the Minister reconsider the September 24, 2009 decision. On November 29, 2019 the Minister denied the request for a reconsideration. The Claimant appealed the Minister's decision to deny her request for a reconsideration to the Social Security Tribunal (Tribunal).

[3] I decided this appeal based on the documents and submissions filed. I did not require any additional evidence to make my decision, as all relevant evidence in the file was clear and non-contradictory. I made my decision after reviewing all material and submissions contained in the file.

[4] A person who is dissatisfied with a decision or determination of an OAS benefit may, within ninety-days make a request to the Minister for a reconsideration of that decision or determination.<sup>1</sup>

[5] The Minister may allow a longer period to make a request for reconsideration of a decision or determination if the Minister is satisfied that there is a reasonable explanation for requesting a longer period and the person has demonstrated a continuing intention to request a reconsideration.<sup>2</sup>

[6] The Minister must also be satisfied that the request for reconsideration has a reasonable chance of success, and that no prejudice would be caused to the Minister or a party by allowing a

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<sup>1</sup> Section 27.1(1) *Old Age Security Act*

<sup>2</sup> Section 29.1(1) *Old Age Security Regulations*

longer period to make the request, if the request for reconsideration is made after the 365-day period after the day on which the person is notified in writing of the decision or determination.

## **ANALYSIS**

[1] I must determine if the Minister exercised his discretion judicially in refusing the Claimant's late reconsideration request. A discretionary power is not exercised "judicially" if it can be established that the decision-maker: acted in bad faith, acted for an improper purpose or motive, took into account an irrelevant factor, ignored a relevant factor, or acted in a discriminatory manner.<sup>3</sup>

[2] The Minister advised the Claimant in the decision letter in September 2009, of her right to request a reconsideration, and the requirement to make such request within ninety days of receipt of the decision. The decision letter noted the toll free telephone number she can call if she has questions regarding her right to request reconsideration of the decision. The Minister received the Claimant's request for reconsideration on September 17, 2019, beyond the ninety-day period allowed for a reconsideration decision. I find the Claimant made her request for reconsideration outside the required ninety-day limit.

[3] The Claimant provided an explanation for her delay and set out that she did not read the fine print and therefore made a mistake.

### **Reasonable Explanation for the delay**

[4] The Claimant has not provided a reasonable explanation for her delay. The Minister had provided significant information including within the letter of the decision detailing the Claimant's right to a reconsideration. That the Claimant did not review the decision or attached information is not a reasonable explanation for the delay. I find the Claimant has not provided a reasonable explanation for the delay in submitting her reconsideration request.

### **Continuing intention to request a reconsideration**

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<sup>3</sup> Canada (A.G.) v Purcell [1996] 1 F.C. 644

[5] The Claimant never contacted the Minister to advise that she intended to request a reconsideration until she filed her request on September 17, 2019. I find the Claimant has not demonstrated a continuing intention to request a reconsideration.

[6] As I have determined that the Minister did not err in finding that the Claimant did not have a reasonable explanation for the delay nor a continuing intention to pursue the appeal, it is not necessary to determine whether the discretion was exercised judicially.

[7] The appeal is dismissed.

Adam Picotte  
Member, General Division - Income Security