



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *SB v Minister of Employment and Social Development and FB*, 2020 SST 843

Tribunal File Number: AD-20-731

BETWEEN:

S. B.

Appellant (Claimant)

and

Minister of Employment and Social Development

Respondent (Minister)

and

F. B.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Jude Samson

DATE OF DECISION: September 29, 2020

DECISION AND REASONS

DECISION

[1] The appeal is dismissed.

OVERVIEW

[2] The Claimant, S. B., has been receiving the Guaranteed Income Supplement (GIS) for many years. This monthly benefit is provided to Old Age Security pension recipients who have a low income and live in Canada. The GIS amount does vary, however, based on the claimant's marital status.

[3] The Claimant and the Added Party do not dispute the fact that they have lived in a common-law relationship since September 1, 2016. The Claimant informed the Minister of this fact in July 2018. Afterwards, the Minister recalculated the GIS amount to which the Claimant was entitled. The Minister established that it had overpaid the Claimant by \$3,582.31 for September 2017 to August 2018.

[4] However, the Minister failed to update its information systems to record the Claimant's marital status. As a result, the Minister continued paying the GIS to the Claimant at too high a rate.

[5] In August 2019, the Minister made a new correction to the Claimant's account and informed him that he had received an overpayment of \$3,713.83 for September 2018 to August 2019. However, the Minister found that the responsibility for this overpayment was shared. As a result, the amount that the Minister asked the Claimant to repay was reduced to \$1,856.92.

[6] The Claimant disputed the Minister's decision, but the Minister upheld its initial decision on reconsideration. The Claimant then appealed the Minister's decision to the General Division, but it summarily dismissed his appeal. The General Division found that the Tribunal does not have the jurisdiction to consider the administrative error issue that the Claimant raised.

[7] The Claimant is now appealing the General Division decision to the Appeal Division. I am dismissing the appeal because the Claimant continues to raise issues over which the Tribunal does not have jurisdiction.

METHOD OF PROCEEDING

[8] I decided this appeal based on the documents already on file because:

- a) the relevant facts are clear;
- b) the legal issues the appeal raises are not complex; and
- c) appeals before the Tribunal must run as informally and quickly as the circumstances and the considerations of fairness and natural justice permit.¹

ISSUE

[9] There are only certain types of errors that I can consider. These are referred to as “relevant errors.”² Generally speaking, did the General Division:

- a) act in a discriminatory manner;
- b) fail to decide an issue that it should have, or decide an issue without having the jurisdiction to do so;
- c) misapply the law; or
- d) base its decision on an important error regarding the facts of the file?

[10] As part of this decision, I focused on the following question: Did the General Division make a relevant error by summarily dismissing the Claimant’s appeal?

¹ This principle is established in section 3(1)(a) of the *Social Security Tribunal Regulations*.

² Section 58(1) of the *Department of Employment and Social Development Act* specifies the three relevant errors (or grounds of appeal) that I must consider.

ANALYSIS

[11] The Claimant has not established that the General Division made a relevant error. Therefore, I am dismissing his appeal.

[12] In his notice of appeal, the Claimant wanted to emphasize that he had informed the Canada Revenue Agency and then the Minister of the change in his marital status. As a result, he says that the Minister made an administrative error by failing to update its files, and he asks that his debt be cancelled.

[13] However, the law states that:

- a) the Claimant was required to inform the Minister without delay of any change to his marital status;³
- b) it is not enough to inform the Canada Revenue Agency instead of the Minister;⁴ and
- c) the Tribunal does not have the jurisdiction required to decide whether an administrative error occurred nor whether a debt should be cancelled because of such an administrative error.⁵

[14] As mentioned above, the Appeal Division intervenes in a case only if the appellant establishes that the General Division committed at least one of the relevant errors. I find that none of these errors were committed in this file. On the contrary, the General Division's conclusions are well supported by the law and the facts of the file. Therefore, I have to dismiss the appeal.

CONCLUSION

[15] I am sympathetic to the Claimant's circumstances. However, I cannot invoke the principles of equity or consider extenuating circumstances to cancel a debt.

³ This requirement is established in section 15(9) of the *Old Age Security Act*.

⁴ *Barry v Canada (Attorney General)*, 2010 FC 1307.

⁵ *Canada (Minister of Human Resources Development) v Tucker*, 2003 FCA 278.

[16] Since the Claimant has not established that the General Division made a relevant error, I have no choice but to dismiss his appeal.

Jude Samson
Member, Appeal Division

METHOD OF PROCEEDING:	On the record
REPRESENTATIVE:	S. B., Appellant