Social Security Tribunal of Canada | Tribunal de la sécurité sociale du Canada

Citation: *PM v Minister of Employment and Social Development*, 2021 SST 92

Tribunal File Number: AD-20-815

BETWEEN:

P. M.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Shirley Netten

DATE OF DECISION: March 10, 2021

Canada

DECISION AND REASONS

Decision

[1] The appeal is dismissed.

Overview

[2] P. M. (Claimant) re-applied for an Old Age Security (OAS) pension in September 2018. In August 2019, Service Canada determined that the Claimant had lived in Canada for 4 years and 219 days after age 18, and concluded that he did not meet the residency requirement for an OAS pension. Service Canada stated that the application would be forward to International Operations for further review.

[3] In September 2019, Service Canada determined that the Claimant had lived in Canada for 7 years, 6 months and 3 days, after age 18. Service Canada further determined that the Claimant could receive a partial OAS pension of $91.12 monthly from October 2017, a partial OAS pension of $106.31 monthly from July 2018, or a full OAS pension from February 2024 if he lived in Canada until then.[1] Service Canada asked the Claimant to choose one of these three options.

[4] The Claimant could not choose any of the three options, because he disagreed with the underlying residency determination and all of the choices given to him. Service Canada did not outline any recourse options for this situation. Nevertheless, the Claimant completed a Request for Reconsideration in November 2019. He argued that he was entitled to a full OAS pension from July 2018. Service Canada did not process the Request for Reconsideration, telling the Claimant in February 2020 that the request was premature because a final decision had not been made.

[5] With no alternative recourse, the Claimant appealed to the Social Security Tribunal's General Division in April 2020. Among other concerns, the Claimant complained about Service Canada's refusal to process his Request for Reconsideration. He expressed urgency in seeking a

[1] Although it isn't stated in the decision letter, it appears that Service Canada considered the Claimant's contributions in the United States when determining his eligibility at that time.

resolution to Service Canada's inaction. The Claimant pointed to section 27.1 of the *Old Age Security Act* (OASA), which outlines reconsideration rights. He argued that he had a statutory right to a reconsideration; that the withdrawal of his request was an abuse of process and barred him from challenging Service Canada's determinations; and that Service Canada was trying to coerce him and potentially other vulnerable seniors into accepting lesser options.[2]

[6] The Claimant also argued that Service Canada failed to provide sufficient reasons for its decisions, and acted unfairly and oppressively in its investigation of his residency. He asked the General Division to direct Service Canada to grant him a full OAS pension effective July 1, 2018 or "show cause why they should not do so."

[7] In a letter dated April 28, 2020, the Tribunal's Secretariat said that the Notice of Appeal was invalid because there was no reconsideration decision. The Secretariat closed the appeal file, and the General Division did not make a decision about the Claimant's appeal. Effectively, the General Division declined jurisdiction over the matter.

[8] The Claimant then filed an appeal with the Tribunal's Appeal Division, to challenge what he called the dismissal of his appeal at the General Division. The Claimant explained that he had been "seeking relief from the refusal of Service Canada to hear my Request for Reconsideration."

[9] At a case conference in August 2020, the representative for the Minister of Employment and Social Development (Minister) agreed to process the Claimant's Request for Reconsideration. However, in light of further delays, I issued an interlocutory decision in November 2020. I gave the Claimant permission to appeal the General Division's failure to consider his appeal, because there was an arguable case that the General Division had made an error of jurisdiction. I requested and have now received written submissions from the parties.

[10] On December 11, 2020, during the submissions period, Service Canada issued its reconsideration decision about the Claimant's residency and eligibility for the OAS pension. From the Claimant's perspective, this was not a favourable decision. Service Canada found that the Claimant had resided in Canada from May 1975 to December 1979, and again from April

[2] Pages 15, 16, 21 of the Petition attached to the Claimant's Notice of Appeal to the General Division.

2019; after accounting for contributions in the United States, the Claimant was eligible for a partial OAS pension of $60.15 monthly (4/40^{ths} of a full pension) effective May 2019. The Claimant has since asked me to rescind this reconsideration decision.

[11] I am dismissing this appeal because the matters raised by the Claimant are moot, beyond my authority, or outside my jurisdiction.

Issues

[12] This decision addresses the following questions:

a) Is the question of the Minister's obligation to issue a reconsideration decision moot?

b) Can I grant any of the other relief requested by the Claimant?

c) Do I have jurisdiction to address the December 2020 reconsideration decision?

The question of whether a reconsideration decision was required is moot

[13] Courts and tribunals can decline to decide a matter that raises a hypothetical question: this is the doctrine of mootness. As the Supreme Court of Canada has explained, a matter is moot, or becomes moot, if the decision will have no practical effect on the rights of the parties.[3]

[14] I previously identified a potential error of jurisdiction by the General Division, because Service Canada's decision not to issue a reconsideration decision might itself have been subject to appeal. Since then, Service Canada has issued a reconsideration decision.

[15] At this point, nothing turns on whether I find that the General Division refused to exercise its jurisdiction. Even if I were to find such an error, the remedy would be limited to confirming or reversing Service Canada's decision that it did not have to make a reconsideration decision. I might agree with the Claimant that Service Canada's August and September 2019 letters triggered the right to request and receive a reconsideration. If so, I could cancel Service

[3] *Borowski v Canada (Attorney General)*, 1989 CanLII 123 (SCC).

Canada's decision that a reconsideration decision was premature and replace it with a decision that a reconsideration decision was required.[4] But what difference would that make?

[16] I agree with the Minister's representative that an Appeal Division decision about whether a reconsideration decision was required would have no practical effect on the parties. The Claimant appears to recognize this reality: whereas his original petition focused on his right to a reconsideration decision and challenged the refusal to process his Request for Reconsideration, he now focuses on Service Canada's decision-making process.

[17] Since Service Canada has now issued a reconsideration decision, I conclude that the question of whether such a decision was premature (as Service Canada said) or required (as the Claimant argued) is moot.

There is no reason to exercise discretion to address the moot issue

[18] Courts and tribunals may choose to hear a moot issue in exceptional circumstances, keeping in mind the importance of an adversarial context, the need for conserving resources, and the traditional adjudicative role.[5] Administrative tribunals, in particular, may need to consider whether their decision would have any broader impact, and whether the moot issue is better resolved in a policy forum.[6]

[19] I see no reason to exercise my discretion in this case. An Appeal Division decision on this matter would not be binding on the Minister in other cases, nor would it force Service Canada to changes its practices. I share the Claimant's concern that vulnerable seniors may not be aware of their recourse rights after receiving an OAS options letter from Service Canada, and may feel compelled to accept one of the choices presented. I commend the Claimant for bringing this issue to light. I am optimistic that the Minister will, as a matter of policy, consider how best to ensure that

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[4] DESDA, ss 59(1), 54(1). This is also the most that the General Division could have done, if the matter was referred back to it.
[5] *Borowski*, *supra*. See also administrative tribunal decisions such as *Correctional Service of Canada v Mike Deslauriers*, 2013 OHSTC 41; *Canadian National Railway Company*, 2011 CIRB 572; *Schaffer v Sunnybrook Health Sciences Centre*, 2019 HRTO 1320 .
[6] *Decision No. 1846/02*, 2003 ONWSIAT 54.

applicants can challenge OAS determinations, as required by the OASA.[7] Alternatively, the issue may return to this Tribunal, in another appeal.

The Appeal Division doesn't have the power to grant the remaining relief requested

[20] In arguing that the appeal is not moot, the Claimant points to ongoing disputes about Service Canada's procedures. He requests:

a) that the matter be referred back to the General Division, with directions to:

   a. address the Claimant's right to a hearing at the reconsideration stage;

   b. require the Minister to show why the Claimant should not be granted a full OAS pension;

   c. declare that claimants are entitled to have OAS applications processed in a fair, competent and expeditious manner, under the *Canadian Bill of Rights* (*Bill of Rights*) and the *Canadian Charter of Rights and Freedoms* (*Charter*);

   d. remedy any procedural misconduct by Service Canada and issue a writ of *mandamus*;[8] and

   e. designate senior citizen OAS claimants as a class afforded *Charter* protection, for the purpose of challenging the operability of section 27.1 of the OASA;

b) alternatively, that the Appeal Division provide this same relief and/or grant the full OAS pension; and

c) that costs and damages be awarded to him, for malfeasance and abusive conduct by the Minister in the processing of his OAS application.[9]

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[7] Under section 27.1 of the OASA, the right to reconsideration arises upon any determination that no benefit may be paid, or about the amount of a benefit that may be paid.
[8] A writ of *mandamus* is an order directing a government or other authority to take, or not take, certain actions.
[9] AD15-7 to 15-9.

[21] Most recently, the Claimant seeks an order referring the matter back to the Minister, with extensive procedural directions. [10]

[22] As explained below, these remedies are not available in this appeal.

- **The Appeal Division can only grant the relief set out in the DESDA**

[23] The Appeal Division reviews General Division decisions by considering the grounds of appeal set out in the *Department of Employment and Social Development Act* (DESDA).[11] If there are grounds to appeal, the Appeal Division can only make certain types of decision:

> 59(1) The Appeal Division may dismiss the appeal, give the decision that the General Division should have given, refer the matter back to the General Division for reconsideration in accordance with any directions that the Appeal Division considers appropriate or confirm, rescind or vary the decision of the General Division in whole or in part.[12]

[24] When replacing the General Division decision, or directing the General Division on reconsideration, the Appeal Division cannot go beyond the General Division's powers. Those are the following:

> 54(1) The General Division may dismiss the appeal or confirm, rescind or vary a decision of the Minister or the Commission in whole or in part or give the decision that the Minister or the Commission should have given.[13]

[25] To support his request for relief, the Claimant points to the power to decide questions of law or fact.[14] This power allows the Appeal Division to interpret the law and make findings of fact, as necessary to reach a conclusion on an appeal. I agree with the Minister's representative that this power does not expand the remedies available to the Appeal Division.

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[10] AD19-18.
[11] DESDA, s 58. The standard of review applicable for judicial review of administrative decisions (set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65) does not apply to a statutory appeal process.
[12] DESDA, s 59(1).
[13] DESDA, s 54(1).
[14] DESDA, s 64(1).

- **The Tribunal can't direct the Minister's procedures**

[26] The Claimant relies on Supreme Court of Canada decisions to argue that an order directing the Minister is appropriate in this case. These decisions comment on the courts' ability to issue a writ of *mandamus* on judicial review; they do not give tribunals the power to do so.[15]

[27] Moreover, the fact that an administrative tribunal can control its own processes does not give it the power to control the processes of another body. The Claimant provided an example of the General Division making certain orders about its appeal proceedings, and asked why it could not have issued similar orders against the Minister in this case.[16] The critical difference is that the General Division (and the Appeal Division) can make such orders about their own proceedings; they cannot make orders directing the Minister's procedures.

[28] I acknowledge the principle that parties must exhaust their remedies in the administrative process before turning to the courts.[17] I also recognize the principle that there must always be some forum where rights can be vindicated.[18] Contrary to the Claimant's argument, these principles do not mean that all remedies, or additional remedies, are now available at the administrative level. I see no basis to conclude, as the Claimant asserts, that the Federal Courts have delegated to the Tribunal "their jurisdiction and but [*sic*] also their authority to afford relief where there has been abuse in the body they superintend."[19]

[29] Under the DESDA, neither the Appeal Division nor the General Division has the power to refer a matter back to, or direct the procedures of, the Minister. Rather than dictating an approach to be taken by the Minister, the General Division (and the Appeal Division in turn) simply replaces the Minister's decisions with its own.

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[15] *Canada v Addison & Leyen Ltd.*, 2007 SCC 33, para 10; *Canada (National Revenue) v JP Morgan Asset Management (Canada) Inc.*, 2013 FCA 250, para 94; *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44, para 150.
[16] AD15-24, referring to *D. S. v Minister of Employment and Social Development*, 2017 CanLII 77115 (SST).
[17] *Canada (Border Services Agency) v C.B. Powell Limited*, 2010 FCA 61, para 30-32.
[18] *Brotherhood of Maintenance of Way Employees Canadian Pacific System Federation v Canadian Pacific Ltd.*, 1996 CanLII 215 (SCC), para 8; *Canada (National Revenue) v JP Morgan Asset Management (Canada) Inc.*, 2013 FCA 250, para 99.
[19] AD7-4. The Claimant relies upon *Canada (National Revenue) v RBC Life Insurance Company*, 2013 FCA 50, which refers to Federal Courts' plenary powers, not those of administrative tribunals.

[30] Let's assume for the moment that the General Division made a reviewable error by refusing to hear the Claimant's appeal. Even so, I could not direct the Minister to give the Claimant a hearing at the reconsideration stage, order the Minister to show why the Claimant should not be granted a full OAS pension, decide how the Minister should process and investigate OAS applications, or punish any procedural misconduct by Service Canada.

[31] I could not direct the General Division to do these things either. The Appeal Division can refer a matter back to the General Division with directions, but it cannot direct the General Division to do something it is not allowed to do.

- **The Appeal Division can't order costs or damages**

[32] There is no explicit power in the DESDA to order costs against a party, or award damages.

[33] Neither the power to decide questions of law and fact,[20] nor the inherent power to control its own procedures,[21] allows the Appeal Division to make an order for costs or damages. Orders for costs and damages are substantive remedies; they are not findings of fact or law, nor are they procedural decisions. Court decisions have confirmed that a tribunal cannot make an order for costs or damages without explicit authority.[22]

- **The *Bill of Rights* and the *Charter* don't expand the remedies available**

[34] The Claimant invokes the *Bill of Rights* and the *Charte*r to support his requests for relief. He asserts that section 2(e) of the *Bill of Rights* and section 7 of the *Charter* give him certain procedural rights during the Minister's decision-making process. He also challenges the operability of section 27.1 of the OASA. In his view, this would allow me "to impose a plenary range [of] remedies under the Section 24(1) of the Constitution Act."

[35] Neither the *Bill of Rights* nor the *Charter* expands the remedies available to the Tribunal.

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[20] DESDA, s 64.
[21] Tribunals control their own procedures as "masters in their own house": *Prassad v Canada (Minister of Employment and Immigration)*, 1989 CanLII 131 (SCC).
[22] See, for example, *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2011 SCC 53; *Registrar, Board of Funeral Services v Schmolinski*, 2007 CanLII 48636 (ON SCDC).

[36] The *Bill of Rights* states that federal legislation must be interpreted so as not to infringe upon certain fundamental rights.[23] No matter how I might interpret section 27.1 of the OASA, I still do not have the power to direct the Minister regarding its internal procedures.

[37] As for the *Charter*, I agree with the Claimant that an administrative tribunal with the ability to decide questions of law can "apply the Charter to determine the propriety of any particular provision of an Act it administers."[24] An administrative tribunal cannot make a general declaration of constitutional invalidity, but it can find a relevant statutory provision to be inoperative in a specific appeal.[25] In such cases, a tribunal makes its decision as if the invalid provision were not in force.[26]

[38] Here, the Claimant has clarified that he is not challenging the validity of section 27.1 of the OASA "but rather the way in which it has been applied."[27] He requests a writ of *mandamus* based on Service Canada's failure to observe his *Charter* rights when making its decisions.

[39] A court or tribunal cannot decide a *Charter* issue if it does not have the power to give the remedy requested.[28] And, even when asked to determine whether *Charter* rights have been infringed, an administrative tribunal's powers are restricted to those found in its enabling Act."[29] In other words, the *Charter* does not give an administrative tribunal new remedial power.

[40] I cannot decide the *Charter* issue the Claimant has raised, because I cannot give him the type of relief he has requested. Even if I decided that the Minister's approach to investigation and decision-making violated the *Charter*, I could not direct the Minister to act differently – because the DESDA does not allow me to refer a matter back to, or direct the procedures of, the Minister.[30]

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[23] *Canadian Bill of Rights*, s 2.
[24] AD15-31.
[25] *Nova Scotia (Workers' Compensation Board) v Martin*, 2003 SCC 54, para 31.
[26] For example, *Decision No. 2157/09*, 2014 ONWSIAT 938.
[27] AD19-13
[28] *R v Conway*, 2010 SCC 22, paras 81-82; *Weber v Ontario Hydro*, 1995 CanLII 108 (SCC), paras 61-66.
[29] *Douglas/kwantlen Faculty Assn. v Douglas College*, 1990 CanLII 63 (SCC). The Claimant also cited this decision at AD15-31.
[30] There is a second reason to conclude that I cannot decide the *Charter* issue. My power to decide questions of law is limited to those questions that are "necessary for the disposition" of the appeal (DESDA, s 64(1)). A potential *Charter* violation without a related, available remedy is not a question of law necessary to decide the appeal.

I don't have jurisdiction to address the December 2020 reconsideration decision

[41] A tribunal's jurisdiction, or statutory mandate, is its power to adjudicate concerning the subject matter in a given case.[31] Different tribunals, and different divisions within those tribunals, hear different types of cases, or similar cases at different stages.[32] True questions of jurisdiction arise when a tribunal must "determine whether its statutory grant of power gives it the authority to decide a particular matter."[33]

- **The Appeal Division can only hear appeals of General Division decisions**

[42] Certain types of decisions under the OASA, the *Canada Pension Plan* (CPP), and the *Employment Insurance Act* (EIA) are subject to reconsideration.[34] Service Canada makes the reconsideration decisions, on behalf of the Minister and the Canada Employment Insurance Commission (Commission).

[43] The OASA, the CPP and the EIA each say that a person who is dissatisfied with a reconsideration decision can appeal to the Tribunal.[35] Although these provisions don't name the General Division, it is clear from the structure of the Tribunal and the language of the DESDA that reconsideration decisions are appealed to the General Division.

[44] The Tribunal is a two-level tribunal, with a General Division (divided into an Income Security Section and an Employment Insurance Section) and an Appeal Division. Under the DESDA, an appeal of a decision "must be brought to the General Division."[36] The General Division has the power to confirm, rescind, vary, or replace a decision "of the Minister or the

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[31] Black's Law Dictionary; *M. L. v Minister of Employment and Social Development*, 2020 SST 281.
[32] For example, British Columbia's Employment Standards Tribunal hears appeals of decisions about employment standards but the Workers' Compensation Appeal Tribunal hears appeals about occupational health and safety penalties (*Employment Standards Act* [RSBC 1996] c. 13, s 112, *Workers Compensation Act* [RSBC 2019] c. 1, s 288); the Immigration and Refugee Board's Refugee Protection Division decides refugee claims, and the Refugee Appeal Division hears appeals of Refugee Protection Division decisions (*Immigration and Refugee Protection Act*, ss 100, 110).
[33] *Dunsmuir v New Brunswick*, 2008 SCC 9, para 59, quoted by the Claimant at AD19-9. The standard of review has evolved since *Dunsmuir*, but its description of jurisdiction remains valid.
[34] OASA, s 27.1; CPP, s 81; EIA, s 112, 112.1.
[35] OASA, s 28; CPP, s 82; EIA, s 113.
[36] DESDA, s 52(1).

Commission."[37] The procedures established by the *Social Security Tribunal Regulations* further confirm that the General Division hears appeals of reconsideration decisions.[38]

[45] For its part, the Appeal Division decides appeals of General Division decisions:

> 55. Any decision of the General Division may be appealed to the Appeal Division by any person who is the subject of the decision and any other prescribed person.[39]

[46] Consistent with this mandate, the grounds of appeal to the Appeal Division are limited to certain types of errors made by the General Division.[40] The Appeal Division does not hear matters anew; it can only intervene if one of the listed errors has been made. The Appeal Division has the power to confirm, rescind, vary or replace the General Division decision, and to refer the matter back to the General Division.[41]

[47] The Claimant argues that the DESDA does not restrict the Appeal Division's authority to hearing appeals from the General Division. [42] I disagree. Administrative tribunals are "creatures of statute."[43] They must "adhere to the confines of their statutory authority or 'jurisdiction'[; and t]hey cannot trespass in areas where the legislature has not assigned them authority."[44] This means that the Appeal Division can only decide the types of appeals that the legislation says it can. Section 55 of the DESDA outlines the Appeal Division's jurisdiction. There are no provisions extending the subject-matter jurisdiction of the Appeal Division.

- **Section 64 doesn't expand the Appeal Division's subject-matter jurisdiction**

[48] Under section 64 of the DESDA, both Divisions of the Tribunal can "decide any question of law or fact that is necessary for the disposition of any application made under [the DESDA],"

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[37] DESDA, s 54(1). The General Division can also dismiss the appeal.
[38] See, for example, *Social Security Tribunal Regulations*, ss 24(1)(a), 24(2)(b), 26, 30.
[39] DESDA, s 55.
[40] DESDA, s 58(1).
[41] DESDA, s 59(1) The Appeal Division can also dismiss the appeal.
[42] AD19-8.
[43] *Cooper v Canada (Human Rights Commission)*, 1996 CanLII 152 (SCC), para 54.
[44] *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4, para 35.

with certain limits in CPP and EIA cases.[45] The Claimant describes this power as establishing the Tribunal's jurisdiction.[46] This is incorrect.

[49] I have reviewed the Tribunal decisions cited by the Claimant.[47] These decisions do not hold that section 64 establishes the Tribunal's jurisdiction. While Tribunal members occasionally use the term jurisdiction loosely (meaning only authority or power), this does not change the mandate of the Appeal Division. I agree that the power to decide questions of law and fact is a broad power, but it is a power that must be exercised within the scope of each Division's subject-matter jurisdiction.

- **An obligation to consider procedural fairness doesn't expand the Appeal Division's jurisdiction**

[50] The Claimant points out that matters of procedural fairness are properly addressed by administrative tribunals.[48] I agree: the Appeal Division certainly can consider concerns about procedural fairness and the right to a fair hearing.[49] But the Appeal Division can only consider these matters on appeals within its jurisdiction. For example, the Appeal Division can decide whether the General Division failed to provide a fair hearing (when considering potential errors and the appropriate remedy); the Appeal Division has no mandate to decide whether any other decision maker, including the Minister and Service Canada, failed to provide a fair hearing.

- **A broad approach to jurisdiction doesn't help in this case**

[51] The Tribunal should take a broad approach to its jurisdiction in order to manage appeals fairly and efficiently, within the limits of the law.[50] However, by asking me to address the

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[45] DESDA, s 64.
[46] AD15-21.
[47] *Minister of Employment and Social Development v S. H. and Justice for Canada and Youth*, 2020 SST 381, para 29; *L. H. v Minister of Employment and Social Development*, 2018 SST 119, para 25; *P. A. v Minister of Employment and Social Development*, 2016 CanLII 63297 (SST), paras 10-14; *W. K. v Minister of Employment and Social Development*, 2017 CanLII 145693 (SST), paras 29-33; *J. V. v Canada Employment Insurance Commission*, 2017 CanLII 91820 (SST), paras 25-26.
[48] AD15-22.
[49] One of the grounds of appeal to the Appeal Division is a failure to observe a principle of natural justice: DESDA, s 58(1)(a).
[50] See *M. L. v Minister of Employment and Social Development*, 2020 SST 281.

December 2020 reconsideration decision, the Claimant is asking for an approach that goes beyond those limits.

[52] The Claimant's reference to the "shift in culture" recommended by the Supreme Court of Canada is misplaced: in that case, the Court supported the use of simpler processes in civil litigation, proportionate to the nature of the dispute.[51] The Claimant's reference to the "costs of continuing to follow a flawed approach" is also misplaced: in that case, the Court discussed a new approach to the standard of review in administrative law.[52] Neither of these decisions states, or implies, that administrative tribunals can ignore the limits of their statutory mandate.

[53] There is simply no way to interpret the Appeal Division's jurisdiction to include direct appeals of reconsideration decisions that have not first been appealed to the General Division. I agree with the Minister's representative that the Appeal Division's jurisdiction is limited to appeals of General Division decisions. Consequently, I cannot address the Claimant's concerns about Service Canada's December 2020 reconsideration decision.

[54] The Claimant's recourse is clear: since he disagrees with the December 2020 reconsideration decision, he has 90 days from the date he received that decision to appeal to the General Division.[53] At the conclusion of that appeal process, the General Division will make a fresh decision about the Claimant's residency and entitlement to an OAS pension, based on the evidence and the law.[54] That decision will be binding on the Minister, subject to an appeal of the General Division decision to the Appeal Division.

Conclusion

[55] I am dismissing the Claimant's appeal of the General Division's decision not to hear his appeal. The underlying issue (Service Canada's decision not to issue a reconsideration decision)

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[51] *Hryniak v Mauldin*, 2014 SCC 7.
[52] *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.
[53] DESDA, s 52(1)(b).
[54] DESDA, s 54(1). Proceedings at the General Division will provide the Claimant with the rights he has requested, such as the right to present written evidence and oral testimony, disclosure from the Minister, the right of reply, and an independent decision maker.

is moot, and I don’t have the power to grant the other relief requested. A direct appeal of the December 2020 reconsideration decision is not within my jurisdiction.

[56] The Claimant has now received a reconsideration decision from Service Canada about his residency and eligibility for the OAS pension. To the extent that the Claimant disagrees with the substance of that decision, his recourse lies with the General Division. To the extent that the Claimant seeks orders against the Minister about its investigative and decision-making procedures, his recourse, if any, lies with the Federal Court.

[57] The Claimant is reminded that the deadline to appeal the December 2020 reconsideration decision at the General Division is approaching very soon.

Shirley Netten
Member, Appeal Division

APPEARANCES:	P. M., Claimant Hilary Perry, Representative for the Respondent