



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *Estate of HS v Minister of Employment and Social Development*, 2021 SST 812

Tribunal File Number: GP-21-406

BETWEEN:

Estate of H. S.

Appellant (Claimant)

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Raymond Raphael

DATE OF DECISION: May 21, 2021

DECISION

[1] The appeal is summarily dismissed.

OVERVIEW

[2] H. S. was born in October 1944. She passed away in July 2018.¹ Her estate is the Claimant in this matter. In March 2009, she applied for the *Old Age Security Act* (OAS) pension. On her application, she stated that she did not want to apply for the *Guaranteed Income Supplement* (GIS).² The GIS is a special benefit for OAS pension recipients who have little other income.

[3] In June 2018, a Service Canada representative told her that she was entitled to the GIS. Service Canada mailed the GIS application form to her. Unfortunately, she was not able to complete it before she passed away. In October 2019, her son J. P. submitted an application for GIS on her behalf.³ The Minister denied the application. It stated that it could not approve an application for GIS on behalf of a person after they have died.⁴ The Minister denied the Claimant's request for reconsideration and the Claimant appealed to the Social Security Tribunal.

[4] This appeal involves a determination of whether the Minister can approve an application for GIS made on behalf of a deceased person.

PREHEARING CONFERENCE

[5] I conducted a pre-hearing conference on April 12, 2021. J. P. participated on behalf of the Claimant. A representative of the Minister also participated. The pre-hearing conference was recorded. At his request, the Tribunal sent a copy of the recording to J. P..

[6] I explained the relevant provisions of the OAS to the J. P.. Those provisions do not allow the Minister to approve an application for GIS if it is made after the pensioner has died.

¹ GD2-15

² GD2-10 to 11, 18

³ GD2-14

⁴ GD2-12

[7] J. P. stated his concerns. He stated that Service Canada had failed his mother because it did not notify her of her right to GIS in a timely manner. Service Canada failed to inform her that she was entitled to GIS in 2017. It does not advertise available benefit to seniors.

[8] I explained to J. P. that his complaints involve allegations of erroneous advice and/or administrative error by the Minister. The Tribunal does not have jurisdiction to deal with those types of allegations. If he wishes to pursue this type of claim, he must submit an application to the Minister under section 32 of the OAS Act.

ANALYSIS

[9] I must summarily dismiss an appeal if satisfied that it has no reasonable chance of success.⁵

[10] After the pre-hearing conference, I notified the Claimant that I was considering summarily dismissing the appeal and gave him a reasonable time to make submissions.⁶

[11] The Claimant filed several submissions after the notice.⁷ Most of his submissions relate to his concerns about the way in which I conducted the pre-hearing conference. He also expressed concerns about the manner in which the Minister conducts the OAS process. He stated that the Minister did not properly explain the process to his mother. When she declined the GIS on her initial application, it did not inform her that she could apply for it a later date. He stated that the appeal should not be summarily dismissed.

[12] H. S. passed away in July 2018. Although she had applied for and received the OAS pension, she did not submit an application for the GIS. In October 2019, J. P. submitted an application for the GIS on her behalf.

⁵ Subsection 53(1) of the *Department of Employment and Social Development Act*; *Miter v. Canada (A.G.)*, 2017 FC 262

⁶ GDO

⁷ GD13 to GD15, GD17

[13] Since May 2007, the OAS provisions do not allow the Minister to approve applications for GIS received after the date of death of a pensioner.⁸ The Claimant is asking the Tribunal to make an exception to the legislative provisions.

[14] The essence of the Claimant's position are allegations of administrative error and/or erroneous advice by the Minister. J. P. argues that the Minister should have told his mother about her entitlement to the GIS.

[15] However, I have no authority to deal with those types of issues. Only the Minister and the Federal Court (if the Claimant appeals the Minister's decision) has this jurisdiction.⁹

[16] The OAS provisions bind me. The Tribunal is a statutory decision maker and is required to interpret and apply the provisions as they are set out in the OAS. I have no authority to make exceptions to the provisions of the OAS. Nor can I render decisions based on fairness, compassion, or extenuating circumstances.

[17] Accordingly, I find that the appeal has no reasonable chance of success.

CONCLUSION

[18] The appeal is summarily dismissed.

Raymond Raphael
Member, General Division - Income Security

⁸ Section 29(1) of the OAS Act permits post-mortem applications for the OAS pension. However, it does not permit such applications for the GIS. This is because the GIS is a benefit, not a pension.

⁹ *Pincombe v. AG Canada* [1995] F.C.J. 1320