



[TRANSLATION]

Citation: *CT v Minister of Employment and Social Development*, 2022 SST 1431

Social Security Tribunal of Canada
General Division – Income Security Section
Decision

Appellant: C. T.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated October 14, 2020
(issued by Service Canada)

Tribunal member: Jean Lazure

Type of hearing:

Decision date: June 15, 2022

File number: GP-20-1751

Decision

[1] The appeal is summarily dismissed. This means there won't be a hearing and the Tribunal is closing the appeal file.

[2] This decision explains why I am summarily dismissing the appeal.

Overview

[3] On February 18, 2019,¹ the Respondent issued a decision informing the Appellant that it had overpaid him \$17,151.70 in Guaranteed Income Supplement (GIS) benefits for the periods between July 2013 and June 2014 and between July 2015 and February 2019.

[4] On March 12, 2019, the Respondent received a letter from the Appellant² challenging that decision.

[5] On October 14, 2020, the Respondent sent the Appellant a letter about the reconsideration of the decision.³ The Respondent changed its position to claim only \$6,766.89 from the Appellant. But, since the Appellant had already paid \$142.93, the amount he owes is actually \$6,623.96.

[6] On November 17, 2020, the Appellant appealed the Respondent's decision to the General Division of the Social Security Tribunal.⁴

What summary dismissal means

[7] The Tribunal has to summarily dismiss an appeal if it considers that the appeal has no reasonable chance of success.⁵ If an appeal doesn't have a reasonable chance of success, it means an appellant doesn't have an argument that could possibly

¹ This letter is at page GD2-86 of the file.

² This letter is at page GD2-88 of the file.

³ This letter is at page GD2-89 of the file.

⁴ The Appellant's appeal is at page GD1-1 of the file.

⁵ See section 53(1) of the *Department of Employment and Social Development Act* and *Miter v Canada (Attorney General)*, 2017 FC 262.

succeed. No matter what evidence or arguments an appellant might present at a hearing, the appeal still would not have a reasonable chance of success.⁶

[8] If the Tribunal summarily dismisses an appeal, there won't be a hearing and the Tribunal will close the appeal file.

[9] On April 21, 2022, I sent the Appellant a letter explaining that I planned to summarily dismiss his appeal. I asked him to tell me in writing why he thinks his appeal should not be summarily dismissed.⁷

[10] On May 15, 2022, the Appellant replied to my letter.⁸ He said I should not summarily dismiss his appeal because his right to appeal would be of no use if the appeal was dismissed without being heard.

What I have to decide

[11] I have to decide whether the Appellant's appeal has a reasonable chance of success.

Reasons for my decision

[12] The Appellant's appeal doesn't have a reasonable chance of success.

[13] In its written arguments,⁹ the Respondent points out that I have no jurisdiction over the repayment of an overpayment.

[14] The Minister says that [translation] "the Minister's decisions about the repayment of an established overpayment are discretionary decisions and cannot be subject to review by the SST."¹⁰

⁶ See *The Estate of JB v Minister of Employment and Social Development*, 2018 SST 564 at para 23.

⁷ Before the Tribunal summarily dismisses an appeal, it has to notify an appellant in writing about what it plans to do. It has to give the appellant a reasonable amount of time to make submissions (arguments) too. Section 22(1) of the *Social Security Tribunal Regulations* says this. A copy of the letter I sent to the Appellant is at page GD0-1 of the file.

⁸ This reply is at page GD04-1 of the file.

⁹ These are from page GD3-1 of the file.

¹⁰ Page GD3-3 of the file.

[15] The Respondent is right.

[16] I have jurisdiction only as conferred to me by law. In this case, the relevant provisions are the following paragraphs of the *Old Age Security Act*:¹¹

Appeal — benefits

28 (1) A person who is dissatisfied with a decision of the Minister made under section 27.1, including a decision in relation to further time to make a request, or, subject to the regulations, any person on their behalf, may appeal the decision to the Social Security Tribunal established under section 44 of the *Department of Employment and Social Development Act*.

Request for reconsideration by Minister

27.1 (1) A person who is dissatisfied with a decision or determination made under this Act that no benefit may be paid to the person, or respecting the amount of a benefit that may be paid to the person, may, within ninety days after the day on which the person is notified in writing of the decision or determination, or within any longer period that the Minister may, either before or after the expiration of those ninety days, allow, make a request to the Minister in the prescribed form and manner for a reconsideration of that decision or determination.

Reconsideration — penalty

(1.1) A person against whom a penalty has been assessed under section 44.1 or, subject to the regulations, any person on their behalf, who is dissatisfied with the decision to impose a penalty or with the amount of the penalty may, within ninety days after the day on which the person is notified in writing of the decision or determination, or within any longer period that the Minister may, either before or after the expiration of those ninety days, allow, request the Minister in the prescribed form and manner to reconsider the decision or determination..

Decision of Minister

(2) The Minister shall, without delay after receiving a request referred to in subsection (1) or (1.1), reconsider the decision or determination, as the case may be, and may confirm or vary it and may approve payment of a benefit, determine the amount of a benefit or determine that no benefit is payable, and shall without

¹¹ R.S.C. (1985), c. O-9.

delay notify, in writing, the person who made the request of the Minister's decision and of the reasons for it.

[17] These paragraphs don't give me any jurisdiction over overpayments.

[18] In fact, this same *Act*¹² effectively gives the Minister exclusive discretion over the remission of an overpayment:

Remission of amount owing

(4) Notwithstanding subsections (1), (2) and (3), where a person has received or obtained a benefit payment to which that person is not entitled or a benefit payment in excess of the amount of the benefit payment to which that person is entitled and the Minister is satisfied that

(a) the amount or excess of the benefit payment cannot be collected within the reasonably foreseeable future,

(b) the administrative costs of collecting the amount or excess of the benefit payment are likely to equal or exceed the amount to be collected,

(c) repayment of the amount or excess of the benefit payment would cause undue hardship to the debtor, or

(d) the amount or excess of the benefit payment is the result of erroneous advice or administrative error in the administration of this Act,

the Minister may, unless that person has been convicted of an offence under any provision of this Act or of the *Criminal Code* in connection with the obtaining of the benefit payment, remit all or any portion of the amount or excess of the benefit payment.

[19] There is no provision in the *Old Age Security Act* that allows for a Minister's decision about an overpayment to be appealed to our Tribunal.

[20] In the absence of jurisdiction granted to me by law, I have no choice but to summarily dismiss the Appellant's appeal.

¹² Section 37(4) of the *Old Age Security Act*.

Conclusion

[21] I have to follow the rules set out in the *Old Age Security Act*. Those rules tell me how to determine whether the Appellant's appeal of the Minister's decision is possible.

[22] Such an appeal is impossible in the absence of jurisdiction for the Tribunal.

[23] This means the appeal doesn't have a reasonable chance of success.

[24] The appeal is summarily dismissed.

Jean Lazure

Member, General Division – Income Security Section