



[TRANSLATION]

Citation: *CT v Minister of Employment and Social Development*, 2022 SST 1430

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: C. T.

Respondent: Minister of Employment and Social Development
Representative: Jessica Grant

Decision under appeal: General Division decision dated
June 15, 2022 (GP-20-1751)

Tribunal member: Jude Samson

Type of hearing: On the record
Decision date: December 16, 2022
File number: AD-22-449

Decision

[1] The appeal is dismissed.

Overview

[2] C. T. is the Claimant in this case. He has been getting the Guaranteed Income Supplement (GIS) since July 2013.¹ The amount of the GIS varies depending on the claimant's marital status.

[3] In January 2012, the Claimant told the Minister of Employment and Social Development (Minister) that he was married. But the Minister paid him the GIS at a higher rate, that of single persons.

[4] The Minister became aware of the problem in 2018. In 2019, it recalculated the Claimant's GIS payments based on the rate for married persons and on the couple's income. The Minister said the Claimant had to pay back \$17,151.70.

[5] The Claimant then asked the Minister to reconsider its decision. On reconsideration, the Minister upheld its decision about the Claimant's marital status. That issue has never been disputed. But the Minister reduced the amount owed by the Claimant as follows:²

- For the period from July 2013 to June 2014, the Minister acknowledged its error and wrote off this portion of the debt, amounting to \$3,617.91.
- For the period from July 2015 to February 2019, the Minister acknowledged that it was partly responsible for the error and reduced this portion of the debt by 50%, from \$13,533.79 to \$6,766.90. The Minister notes that the Claimant was notified in July of each year that his benefits were calculated at the single rate and that he never contacted the Minister to change this information.

¹ The Claimant didn't get the Guaranteed Income Supplement (GIS) from July 2014 to June 2015.

² The Minister didn't retain the Claimant's original GIS application. So, we don't what the Claimant said in that document.

[6] So, the Claimant owes \$6,766.90.³

[7] The Claimant appealed the Minister's decision to the Tribunal's General Division. But the General Division summarily dismissed his appeal. According to the General Division, the power to remit (or write off) an overpayment is exclusively vested in the Minister.

[8] The Claimant is now appealing the General Division decision to the Appeal Division. The Claimant hasn't shown that the General Division made a relevant error. So, I am dismissing his appeal.

I am making this decision on the record

[9] I decided the appeal based on the documents already on file for the following reasons:

- the relevant facts are clear
- the legal issues raised in the appeal aren't complex
- appeals to Tribunal must be conducted in a manner that is simple, quick, and fair

Issue

[10] There are only certain types of errors that I can consider.⁴ They are called "relevant errors." In general, I have to ask whether the General Division has:

- acted unfairly
- failed to decide an issue it should have decided, or decided something it didn't have the power to decide

³ See the letter starting on page GD2-89 of the appeal record.

⁴ Section 58(1) of the *Department of Employment and Social Development Act* specifies the relevant errors (or grounds of appeal) that I can consider.

- misapplied the law
- based its decision on an important error of fact

[11] For this decision, I have focused on the following issue: Did the General Division make a relevant error in summarily dismissing the Claimant's appeal?

Analysis

[12] First, the Claimant notes that he had reported his marital status to the Canada Revenue Agency. He argues that the Minister made an administrative error and that it must assume responsibility for it.

[13] In addition, he argues that his debt should be reduced because he can't afford to pay it back.

[14] But the law says that:

- The Claimant was required to inform the Minister of his marital status.⁵
- It isn't enough to inform the Canada Revenue Agency instead of the Minister.⁶
- The Tribunal doesn't have the power to decide whether an administrative error has been made or whether a debt should be reduced as a result of such an error.⁷
- Similarly, the Tribunal can't invoke the principles of equity or take into account particular situations, such as the Claimant's financial situation, to write off a debt.

⁵ Section 15 of the *Old Age Security Act* sets out this requirement.

⁶ See *Barry v Canada (Attorney General)*, 2010 FC 1307.

⁷ See *Canada (Minister of Human Resources Development) v Tucker*, 2003 FCA 278.

[15] As mentioned above, the Appeal Division will intervene in a case only if the Appellant establishes that the General Division made at least one of the relevant errors. I find that none of those errors were made in this case. So, I have to dismiss the appeal.

[16] I can understand the Claimant's disappointment with this situation. But my powers are limited to whether the General Division made an error in summarily dismissing his appeal. The Tribunal can't rewrite or circumvent the law, even in cases that cause sympathy.

[17] But I urge the Minister to take a serious look at the Claimant's statement of income and expenses and his request for further debt relief.

Conclusion

[18] I am dismissing the Claimant's appeal. The General Division didn't make an error in summarily dismissing the appeal.

Jude Samson
Member of the Appeals Division