



Citation: *MG v Minister of Employment and Social Development*, 2022 SST 1433

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

Decision

Appellant: M. G.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated November 30, 2021 (issued
by Service Canada)

Tribunal member: Adam Picotte

Type of hearing:

Decision date: August 18, 2022

File number: GP-22-842

Decision

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

[2] The Appellant, M. G., isn't eligible for a longer period of retroactive benefits for his Guaranteed Income Supplement under the Old Age Security Act.

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

Overview

[4] The Appellant is a pensioner. He regularly applies for and receives a Guaranteed Income Supplement (GIS). The problem the Appellant ran into is that he did not file his Canada Revenue Agency returns in a timely fashion. This resulted in his GIS not automatically renewing.

[5] When the Appellant did eventually submit his income, he was awarded the maximum allowable retroactivity under the *Old Age Security Act*. However, this meant that he was denied a further period of benefits for his GIS.

[6] The Appellant's accountant asked whether there was an equitable basis to extend the period of retroactivity.¹

[7] The Minister says that the maximum allowable retroactivity has been granted and as such, the matter should be summarily dismissed.²

[8] The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

¹ GD6-2

² GD2-22

What summary dismissal means

[9] The Tribunal has to summarily dismiss an appeal if it considers that the appeal has no reasonable chance of success.³ If an appeal doesn't have a reasonable chance of success, it means an appellant doesn't have an argument that could possibly 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.⁴

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

[11] 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.⁵

[12] As mentioned above, the Appellant's representative wrote to ask if there was any equitable jurisdiction to allow for a longer period of retroactivity.

What I have to decide

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

Reasons for my decision

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

³ See section 53(1) of the *Department of Employment and Social Development Act*; and *Miter v Canada (Attorney General)*, 2017 FC 262.

⁴ See *The Estate of JB v Minister of Employment and Social Development*, 2018 SST 564 at para 23.

⁵ 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 GD0-1

[15] The *Old Age Security Act* clearly sets out that no supplement may be paid to a pensioner for any month that is more than eleven months before the month in which the application is received.⁶

[16] I am bound by the legislation and have no equitable jurisdiction to exceed what is allowed for in the legislation. As such, I have no choice but to summarily dismiss this appeal.

Conclusion

[17] I have to follow the rules set out in the *Old Age Security Act*. Those rules tell me how to determine whether the Appellant qualifies for a Guaranteed Income Supplement.

[18] The Appellant has been granted the maximum allowable retroactivity under the Act. As such, the matter is appropriate for summary dismissal.

[19] As a result, the Appellant isn't eligible for a longer period of retroactive benefits.

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

[21] The appeal is summarily dismissed.

Adam Picotte
Member, General Division – Income Security Section

⁶ Section 11(7) *Old Age Security Act*