



Citation: *Minister of Employment and Social Development v NW*, 2022 SST 1418

## **Social Security Tribunal of Canada Appeal Division**

# **Decision**

**Applicant:** Minister of Employment and Social Development  
**Representative:** Sandra Doucette

**Respondent:** N. W.  
**Representative:** S. A.

---

**Decision under appeal:** General Division decision dated August 24, 2022  
(GP-21-570)

---

**Tribunal member:** Neil Nawaz

**Form of hearing:** On the record

**Decision date:** December 19, 2022

**File number:** AD-22-861

## Decision

[1] The appeal is allowed. The General Division made an error when it found that N. W. was entitled to a partial Old Age Security (OAS) pension as of March 2021. The Respondent's pension will instead begin as of June 2021.

## Overview

[2] N. W. was born in Egypt and immigrated to Canada in December 2008. In March 2019, she applied for an OAS pension.

[3] The Minister refused the application because, in her view, N. W. had resided in Canada for only five years—short of the minimum eligibility requirement of 10 years.

[4] N. W. appealed the Minister's refusal to the Social Security Tribunal's General Division. The General Division held a hearing by videoconference and allowed the appeal. It found that the Respondent was a resident of Canada during the following periods:

- December 9, 2008 to April 11, 2009 (124 days)
- January 10, 2011 to June 17, 2016 (1,986 days)
- June 18, 2016 to March 12, 2017 (268 days)
- November 23, 2017 to the of the hearing date of July 13, 2022 (1,694 days)<sup>1</sup>

[5] The General Division concluded that N. W. became eligible for a partial OAS pension at the minimum rate of 10/40<sup>ths</sup> as of February 2021. In that month, the General Division determined that she accumulated 10 years of residence.<sup>2</sup>

[6] The Minister then asked the Appeal Division for permission to appeal. She alleged that the General Division miscalculated the effective date of N. W.'s OAS pension. The Minister took no issue with the granting of the award, only its timing. She agreed that N. W. was entitled to a partial pension but argued that it should have

---

<sup>1</sup> See General Division decision, paragraph 27.

<sup>2</sup> See General Division decision, paragraph 46.

become payable as of June 2021, not March 2021, as the General Division had specified.

[7] I then scheduled a settlement conference to see if there was some basis on which the parties might reach an agreement.

[8] The parties did reach an agreement.<sup>3</sup> They have asked me to prepare a decision that reflects that agreement.

## **Agreement**

[9] At the settlement conference, N. W.'s son and authorized representative agreed that the General Division had committed an error of law. He conceded that his mother did not accumulate 10 years of Canadian residence until May 2021, which meant that her pension could not start until the following month, June 2021.

## **Analysis**

[10] For the following reasons, I accept the parties' agreement.

[11] As the Minister noted, the General Division found that N. W. became eligible for a partial OAS pension in February 2021, but the periods in which it found Canadian residence did not add up to 10 years until May 2021. That created an internal inconsistency in the General Division's decision that must be corrected.

[12] I am satisfied that the General Division made factual and legal errors in calculating when N. W. passed the 10-year mark. By my calculation, using the periods of residence that the General Division itself established, N. W. accumulated 10 years, or 3650 days, of Canadian residence in or around May 16, 2021. According to the rule that specifies a first payment date the month after the month a claimant becomes eligible, that means N. W.'s OAS partial pension begins as of June 2021.

---

<sup>3</sup> Refer to recorded portion of settlement conference held on December 19, 2022.

## Conclusion

[13] The appeal is allowed in accordance with the parties' agreement. The General Division made an error when it found that N. W. was entitled to an OAS pension as of March 2021. Her pension will instead begin as of June 2021.



---

Member, Appeal Division