



Citation: *RP v Minister of Employment and Social Development*, 2023 SST 1814

Social Security Tribunal of Canada General Division – Income Security Section

Decision

Appellant: R. P.
Representative: Y. S.
Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated July 10, 2023 (issued by
Service Canada)

Tribunal member: Carol Wilton
Decision on the record
Decision date: December 19, 2023
File number: GP-23-1292

Decision

[1] The appeal is dismissed.

[2] The Appellant, R. P., is not eligible for *Guaranteed Income Supplement* (GIS) payments for the period July 2021 to June 2022. This decision explains why I am dismissing the appeal.

Overview

[3] The Appellant was 65 years old in October 2019 when he applied for an *Old Age Security* (OAS) pension and the GIS.¹ In June 2020, the Minister approved the application retroactive to July 2019.²

[4] The Appellant didn't submit his 2020 income tax forms to the Canada Revenue Agency (CRA) until March 2022. Nor did he provide the Minister with a statement of income for the previous calendar year. The Minister didn't waive the requirement for an application. The Minister stated the Appellant was therefore ineligible for the GIS from July 2021 to June 2022.³

[5] The Minister upheld its decision on reconsideration. The Appellant appealed the reconsideration decision to the Social Security Tribunal's General Division.

Matters I must address first

The case conference

[6] At a case conference on November 29, 2023, Y. S. represented her husband, the Appellant. Sandra Miron represented the Minister.

[7] After a thorough discussion of the issues, the Appellant stated that he didn't want a hearing. He asked me to write a decision based on the materials in the file and the information from the case conference.

What the Appellant must prove

[8] For the Appellant to succeed, he must prove that he is entitled to the GIS for the period July 2021 to June 2022.

Reasons for my decision

¹ GD02-6

² GD02-14

³ GD02-36. Since then, he has submitted his income tax forms on time and has received the GIS: GD02-37, 41.

The Appellant isn't entitled to GIS payments for the period July 2021 to June 2022

- The law

[9] The GIS is payable to recipients of the OAS pension who have little or no other income. In order to receive the GIS, an OAS recipient must apply every year and provide a statement of their income for the previous calendar year. In addition, the Minister must approve payment of the GIS for that year.⁴ The payment period begins on July 1 of one year and ends on June 30 of the next year.⁵

[10] The Minister *may* waive the requirement to make a statement of income if the OAS recipient files annual tax returns with the CRA. In that case, the statement of income is deemed to have been made.⁶

[11] No GIS benefit is payable for more than eleven months before the Minister receives the application, or deems the application to have been made, or has waived the requirement for the application.⁷

- The Appellant didn't file his 2020 tax return on time

[12] In July 2021, Service Canada notified the Appellant that he was not entitled to the GIS for the period of July 2021 to June 2022.⁸ In April 2023, the Appellant asked for a reconsideration of this decision.⁹

⁴ Subsection 11(2) of the OAS Act. The payment year runs from July to June of the following year: section 2 of the OAS Act; Section 10 and subsection 14(1) of the OAS Act

⁵ Sections 2(c), 10, and 13 of the OAS Act.

⁶ Subsections 14(1) and 14 (1.01) of the OAS Act. An applicant's income for a calendar year is the income calculated under the *Income Tax Act*: Section 13 of the OAS Act.

⁷ Subsection 11(7) of the OAS Act

⁸ GD02-36

⁹ GD02-25

[13] In July 2023, the Appellant stated that he had filed his tax returns late because he and his wife both got Covid-19. He also said that he had misunderstood the process of applying for the GIS.¹⁰

[14] The Minister did not receive a statement of income for 2020 from the Appellant and did not waive the requirement for an application.

[15] In his July 2023 Notice of Appeal, the Appellant stated that he filed his taxes nine months after the deadline. This was less than the 11 months he believed the OAS Act allowed.¹¹ He thought that the CRA would forward the information to Service Canada right away. There would be no need for him to file a “renewal application” (statement of income).¹²

[16] At the hearing, the Minister’s representative explained that Service Canada only received information about the Appellant’s 2020 tax information in June 2023.¹³

[17] In July 2023, Service Canada approved the Appellant’s GIS for 2023-2024. An insert with this information stated that it was important for GIS recipients to file their taxes by April 30 every year. This is because Service Canada reviews GIS recipients’ taxes every year in July to decide whether they are entitled to benefits. The parties agree that the Appellant didn’t file his 2020 tax returns by April 30, 2021.

[18] The Appellant filed his taxes 11 months after the deadline for doing so. The information about his 2020 taxes didn’t reach the Minister until much later than that. Therefore, no GIS amounts were payable to the Appellant for July 2021 to June 2022.

[19] The Appellant stated that he was unfamiliar with the process of applying annually for the GIS. However, the Federal Court has stated that “it is the

¹⁰ GD02-43

¹¹ Service Canada requests that GIS recipients file their taxes by April 30 each year. The Appellant therefore filed his taxes 11 months late, not 9 months late.

¹² GD01-4

¹³ See also GD02-32. The date stamp on the Appellant’s tax reassessment from the CRA said June 2023.

responsibility of those who qualify to make the necessary inquiries, to seek out information and to apply.”¹⁴

[20] The law states that no GIS benefit is payable for more than eleven months before the Minister receives the application, deems the application to have been made, or waives the need for an application. The Appellant did not meet any of these requirements. I have no authority to override the law for compassionate reasons or to help someone out in difficult circumstances.¹⁵

I have no authority to make decisions about the Canada Emergency Response Benefit (CERB)¹⁶

[21] In his Notice of Appeal, the Appellant stated that he believed he was eligible for a one-time grant for GIS recipients who received a CERB grant. At the case conference, he stated that he had received CERB funds in 2020. The grant he was seeking was available automatically to those whose GIS was reduced after July 2021 because they received CERB benefits in 2020. However, the Appellant stated that he didn't get the grant.¹⁷

[22] I do not have the authority to make a decision about CERB grants for the following reasons.

[23] My authority to make a decision comes from legislation. The OAS Act gives me authority over appeals of certain of the Minister's decisions. These are the reconsideration decisions. The OAS Act gives appellants the right to ask for and receive a reconsideration decision from the Minister if they are dissatisfied with an

¹⁴ *Lee v. Canada (Attorney General)*, 2011 FC 689. This decision is binding on me. The issue in that case was different from the issue in the present case, but the principle applies equally here.

¹⁵ See *Langlois v. Canada (AG)*, 2018 FC 1108.

¹⁶ GD01-4. The Appellant raised this matter in his explanation for why his request for reconsideration was later and in his Notice of Appeal. It was also discussed at the case conference.

¹⁷ The Appellant made reference to a government web page in support of his claim.

initial decision about their benefits.¹⁸ An appellant dissatisfied with the Minister's reconsideration decision can appeal to the Tribunal.¹⁹

[24] In the present case, the reconsideration decision did not mention the CERB or the one-time grants for the period July 2021 to June 2022. The Minister did, however, address the issue in submissions to the Tribunal.²⁰

[25] However, I only have authority to make decision on matters covered in the OAS Act. The one-time CERB grant was not an OAS payment or benefit. As a result, it is not reviewable under sections 27.1 and 28 of the OAS Act. The Act only allows me to review decisions that no benefit may be paid, or respecting the amount of the benefit that may be paid under the OAS Act and regulations.

[26] It is not clear that the Appellant has any route for appealing his non-receipt of a one-time grant in the period July 2021 to June 2022. Even if he qualified, all the available funds for the one-time grant were used up before the end of March 2023.²¹

Conclusion

[27] I find that the Appellant is not eligible for the GIS for the period July 2021 to June 2022.

[28] This means the appeal is dismissed.

Carol Wilton

Member, General Division – Income Security Section

¹⁸ Section 27.1 and 28 of the OAS Act. See also *Canada (Attorney General) v. Bannerman*, 2003 FCT 208.

¹⁹ Service Canada usually makes the reconsideration decision on behalf of the Minister.

²⁰ GD04

²¹ GD04-2: Minister's submissions.