



Citation: *AG v Minister of Employment and Social Development*, 2023 SST 1875

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

Decision

Appellant:	A. G.
Respondent:	Minister of Employment and Social Development
Minister's representative:	Bindu Kurian
Decision under appeal:	Minister of Employment and Social Development reconsideration decision dated December 21, 2022 (issued by Service Canada)
Tribunal member:	Carol Wilton
Type of hearing:	Teleconference
Hearing date:	November 22, 2023
Hearing participants:	Appellant Minister's representative
Decision date:	November 24, 2023
File number:	GP-23-419

Decision

[1] The appeal is dismissed.

[2] The Appellant, A. G., isn't eligible for an increase in his partial Old Age Security (OAS) pension. This decision explains why I am dismissing the appeal.

Overview

[3] In October 2021, the Appellant applied for an OAS pension.¹

[4] The Appellant has lived in Canada since October 2016. On his OAS application, he asked that payment of his pension begin at the earliest opportunity. This was 11 months before the application was received – November 2020.² At that time, he had lived in Canada for four years and one month. The Minister awarded the Appellant a partial OAS pension of 4/40ths.

[5] The Appellant stated that his OAS pension should be higher. The Minister had arbitrarily failed to consider all the years that the Appellant lived in countries with which Canada has social security agreements.³

What the Appellant must prove

[6] For the Appellant to succeed, he must prove it is more likely than not that he is eligible for a higher partial OAS pension.⁴

¹ GD02-16

² Subsection 11(7) of the OAS Act

³ GD04

⁴ See *Singh v. Canada (Attorney General)*, 2013 FC 437. That decision deals with the onus of proving entitlement to an OAS pension. Presumably, the onus is also on the Appellant to establish his entitlement to a larger OAS pension.

Reasons for my decision

[7] I find that the Appellant is not eligible for a higher partial OAS pension.

[8] These are my reasons.

The law

[9] The general rule is that, to collect a partial OAS pension, it is necessary to be at least 65 years old, to be in Canada legally, and to have lived in Canada for at least ten years.⁵

[10] The amount of the OAS pension is based on years of residence in Canada.

[11] If an applicant doesn't have ten years of residence in Canada, they may still get a partial OAS pension if they have lived in a country or countries that have social security agreements with Canada. Such agreements may provide that residence in those countries can help the applicant meet the ten-year requirement.⁶

[12] However, the amount of the partial OAS pension continues to be based on years of residence in Canada. Residence elsewhere that takes the applicant above the ten-year mark cannot increase the amount of the partial OAS pension.

The Minister's calculations

[13] In awarding the Appellant a partial OAS pension, the Minister considered his residence in two of the countries with which Canada has social security agreements: St. Lucia (6 years, 333 days), and Antigua and Barbuda (3 years, 91 days). This put the Appellant over the ten-year mark. That meant he qualified for a partial OAS pension for his four years of residence in Canada by November 2020.

⁵ Subsection 3(2) and s. 4 of the OAS Act

⁶ Subsection 40(1)(d) and (e) of the OAS Act. The provisions of the social security agreements may differ significantly from each other.

At the hearing

[14] At the hearing, after I had explained the law, the Appellant said that he understood why the Minister had made the decision that it did. He understood that additional years of residence in countries with which Canada has social security agreements would not increase the amount of his partial OAS pension. He accepted that he was not entitled to an increase in his OAS pension.

[15] I find that it is more likely than not that the Appellant is not eligible for an increase in his partial OAS pension.

The Appellant's issues with the OAS process

[16] At the hearing, the Appellant voiced complaints about the OAS process:

- Service Canada asked him to produce evidence of his travels from more than 50 years ago.⁷ This was unreasonable and convinced him that Service Canada “had an antipathy” to his application. He thought he was the victim of discrimination.
- Some of the countries didn't fulfil their obligations to answer requests for information from Service Canada. Service Canada should have held them to account and not put the burden on the Appellant to produce evidence.
- The government web page does not clearly explain entitlement to the OAS pension. Service Canada should update their website.

[17] The Minister's representative stated that the Minister needs proof that an applicant qualifies for the partial OAS pension. The Minister was able to get the necessary evidence without the assistance of the Appellant. Once the Minister obtained that information, it did not ask the Appellant again for documents from more than 50 years ago.

[18] The Minister's representative apologized for any distress the Minister's request caused the Appellant.

⁷ GD02-72

[19] I have no authority over the manner in which the Minister collects evidence relating to OAS applications.

Conclusion

[20] I find that the Appellant isn't eligible for an increase in his partial OAS pension.

[21] This means the appeal is dismissed.

Carol Wilton
Member, General Division – Income Security Section