



Citation: *VP v Minister of Employment and Social Development*, 2024 SST 354

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

Decision

Appellant: V. P.
Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated June 15, 2018 (issued by
Service Canada)

Tribunal member: Jackie Laidlaw
Type of hearing: In Writing
Decision date: February 7, 2024
File number: GP-18-1581

Decision

[1] The appeal is dismissed because there is nothing left for the Social Security Tribunal (Tribunal) to decide.

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

Overview

[3] The Guaranteed Income Supplement (GIS) is a monthly benefit for people who get an Old Age Security (OAS) pension. How much they get for the GIS (or whether they get it at all) usually depends on their income from the year before.

The Appellant is V. P. He receives a pension from both Romania and Canada. From Canada, the Appellant is eligible for both a Guaranteed Income Supplement (GIS) and OAS income.

[4] The Minister of Employment and Social Development (Minister) said the Appellant had an overpayment in GIS for the period from July 2014 to November 2017.¹

[5] The Minister decided that the Appellant had incorrectly noted the amount of his pension from Romania, which lowered his income calculation. In November 2017, the Minister of Employment and Social Development (Minister) recalculated the Appellant's GIS payments. The Minister said the Appellant had to repay the overpayment in GIS payments he had received from July 2014 to November 2017.^{2 3}

[6] The Appellant appealed the Minister's decision to the Tribunal's General Division.

[7] The Appellant claims four issues.

¹ The decision is at GD2-40 dated September 4, 2015, for the period from July and August 2015. Also see GD 2-46 a letter dated November 8, 2017, outlining an overpayment from July 2014 to November 2017. The Appellant asked the Minister of Employment and Social Development to reconsider. The reconsideration decision is at GD 2-124.

² The decision is at GD 2-64. The Appellant asked the Minister of Employment and Social Development to reconsider. The reconsideration decision is at GD 2-124.

³ Please see GD 2-64 the letter of November 8, 2017, to the Appellant where the Appellant hand altered the letter indicating the income year of 2016 should be to June 2018. The Appellant is correct the income year 2016 is the GIS payment period from July 2017 to June 2018. However, the overpayment only goes to November 2017.

- He may deduct bank fees and the cost of currency exchange fees that he paid to change his Romanian pension to Canadian dollars as part of his income calculation.
- The Minister incorrectly converted his pension income to Canadian dollars.
- He has a health condition.
- He has financial hardships.

A Matter I have to consider first

The Appeal was determined “in Writing”

[8] In his Notice of Appeal, the Appellant said he did not have a preference about the format of the hearing. In doing so, he understood that, by not giving a preference, the Tribunal could proceed with the Appeal without an oral hearing (based on the file or by written questions and answers). Further, when the Tribunal received the Tax Court ruling, it contacted the Appellant to see if he wished to continue his appeal and to advise him that the Tribunal may decide his appeal based on the evidence and arguments currently available if he did not respond by January 8, 2024. The Appellant did not respond to the Tribunal and was then advised on January 17, 2024, that the Tribunal would be proceeding with a hearing in writing.

[9] On January 28, 2024, the Appellant responded and in bold, under “Very important Note” he wrote he would not participate in a teleconference because of his poor hearing and lack of equipment. Instead, he would answer all questions through email.⁴ I had no further questions for the Appellant and so I have made the decision based on the information on file.

[10] The issues of income in dispute had to be heard by the Tax Court first. I determined I could write my decision based on the evidence on file now that the Tax

⁴ See GD 9-7.

Court had issued their decision. The other two issues are not of any merit to the determination of his GIS income.

[11] The Appellant has waited over five years for a decision from our Tribunal. To wait longer for a hearing where no further evidence would be brought for me to make a decision would be unfair.

Reasons for my decision

The Tax Court decided the issue about the Appellant's income

[12] The issue in the appeal was about the Appellant's income. This meant that the Tribunal had to refer the appeal to the Tax Court of Canada (Tax Court). Only the Tax Court can decide appeals about income.⁵

[13] The Tribunal referred the appeal to the Tax Court in May 2019.

[14] In November 2023, the Tax Court⁶ made a decision about the appeal.

[15] The Tax Court dealt with the issue about the Appellant's income. The Tax Court found the Appellant's Romanian pension must be included in the Appellant's income for the purposes of the GIS income calculation. The Tax Court also found the provisions of the Old Age Security Act (OASA) do not allow for the deductions from income claimed by the Appellant. As well, the Tax Court found the Minister was correct in their conversion of the Romanian pension amounts into Canadian dollars.

[16] The Appellant has asked this Tribunal to intervene and dismiss the overpayment and change the decision from the Tax Court. The Appellant is under the impression this hearing would be his second appeal on this issue, basically an appeal of the Tax Court decision.⁷ It is not. The Tax Court is the only court allowed to determine the first two issues in dispute noted in paragraph 8. I, and the Social Security Tribunal are not allowed to determine those issues by law.

⁵ See section 28(2) of the *Old Age Security Act*.

⁶ See GD 7.

⁷ See GD 9.

[17] As the Tax Court has made these rulings on issues I have no jurisdiction to hear, these issues are now dealt with and there is nothing left for the Tribunal to decide.

Other issues

[18] In an appeal letter dated November 24, 2017, the Appellant also noted his poor health and low income should be taken into consideration.⁸

[19] While I sympathize with the Appellant, neither the Appellant's health nor his financial hardship is something I can take into account.

Conclusion

[20] I don't have the power to change the Tax Court's decision about the Appellant's income. That was the only issue in the appeal.

[21] This means the appeal is dismissed.

Jackie Laidlaw
Member, General Division – Income Security Section

⁸ See GD 2-62 to 63. And GD 9.