



Citation: *OC v Minister of Employment and Social Development*, 2024 SST 1063

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: O. C.

Respondent: Minister of Employment and Social Development
Representative: Érelégna Bernard

Decision under appeal: General Division decision dated April 29, 2023
(GP-22-1115)

Tribunal member: Pierre Vanderhout

Type of hearing: In Writing

Decision date: September 4, 2024

File number: AD-23-617

Decision

[1] The appeal is allowed. The Appellant is entitled to the Guaranteed Income Supplement (GIS) for the months of May 2017 and June 2017.

Overview

[2] The Appellant, O. C., is 79 years old. I will refer to him as the Claimant. He owns a home in Ontario, and stays there for part of each year. However, he also has a common-law partner and seven-year-old child in the Philippines. He typically stays there for about seven months each year.

[3] The Claimant receives a full Old Age Security (OAS) pension. This pension is portable. This means he receives it no matter where he resides. His OAS pension entitlement is not in dispute. The issue in this appeal is whether he could continue to receive the GIS as of May 2017. The GIS is an additional benefit payable to some OAS recipients who have a low income.

[4] The Claimant first applied for the GIS in 2010. He received the GIS for many years. In December 2020, the Minister of Employment and Social Development (Minister) decided that the Claimant was not entitled to GIS once he established a “primary residence” in the Philippines. The Minister said this happened as of May 2017.

[5] On reconsideration, the Minister upheld the decision to end the Claimant’s GIS payments as of May 2017. The Claimant appealed that decision to the General Division of the Social Security Tribunal (Tribunal). In April 2023, the General Division dismissed the Claimant’s appeal. The General Division found that the Claimant was no longer a resident of Canada as of May 2017. The Claimant then appealed the General Division decision to the Tribunal’s Appeal Division.

[6] The Claimant said his GIS entitlement should not end in May 2017. He said he has never owned a house or property in the Philippines. He said his absences from Canada were not more than six months, as the departure month should not be counted. He said he permanently resides in Canada and merely vacations each year in the

Philippines. He said temporary absences from Canada do not interrupt residency. He also pointed to a Minister's 2022 statement that apparently recognizes his residency in Canada. He also cited a finding by the Canada Revenue Agency (CRA).

[7] The Minister said the Claimant's GIS entitlement should end in May 2017. The Minister said he stopped residing in Canada once he entered a common-law partnership in the Philippines. The Minister noted the nature, frequency, and duration of the Claimant's absences from Canada. The Minister also said the Claimant's ties to the Philippines were stronger than his ties to Canada. The Minister said the legal test for residency requires a finding that the Claimant no longer resided in Canada.

[8] I must decide whether the Claimant remained entitled to the GIS in May 2017. In particular, I must decide whether he was entitled to the GIS for the months of May 2017 and June 2017. I will explain the scope of my decision in the "Preliminary Matters" section below.

[9] I find that the Claimant was entitled to the GIS for the months of May 2017 and June 2017.

Preliminary matters

[10] I will first speak to two preliminary matters: (1) the form of hearing, and (2) the scope of my decision in this appeal.

The form of hearing

[11] The Claimant requested that the hearing proceed "in writing". This means that I must make my decision based on the written arguments and supporting documents filed by the parties. The Claimant said this was his preferred means of communication.¹

¹ See AD1-4 and AD1-5.

[12] The legislation says that the hearing must proceed in the format requested by the Claimant. A hearing “in writing” is one of the permitted formats. As a result, this appeal proceeded “in writing” and without an oral hearing.²

The scope of my decision in this appeal

[13] The parties made extensive submissions on what I should be deciding in this appeal. The Minister submitted that I ought to consider GIS entitlement from May 2017 forward. The Minister did not want me to stop at June 2017, but cited no persuasive legal authority for this.³ The Claimant was less clear on which period I ought to consider. His position is simply that he remains entitled to the GIS.

[14] In my view, I only should be considering GIS entitlement for the months of May 2017 and June 2017. I will now explain why.

[15] The GIS is a time-limited benefit. Entitlement is determined **annually**, for a one-year payment period starting on July 1 and ending on June 30 of the next calendar year.⁴ That entitlement is based partly on the applicant’s income for the calendar year ending December 31 of the previous calendar year.⁵ Other factors, such as marital status, residence, and absences from Canada, can also affect entitlement to GIS payments in a given payment period.⁶

[16] An OAS recipient might have their GIS entitlement change, or stop completely, from one payment period to the next. If the non-income entitlement factors change, the entitlement could even change within a payment period.

[17] As a general rule, an applicant must apply yearly for the GIS.⁷ However, the Minister can waive this requirement. The Claimant does not appear to have applied

² See section 2(1) of the *Social Security Tribunal Regulations, 2022*.

³ See AD35-1. The Minister just refers to facts that are similar both during and after the payment period.

⁴ See the definition of “payment period” in s. 2 of the *Old Age Security Act*. See also the definition of “current payment period” in s. 10 of the *Old Age Security Act*.

⁵ See the definition of “base calendar year” in s. 10 of the *Old Age Security Act*.

⁶ See section 11(7) of the *Old Age Security Act*.

⁷ See s. 11(2) of the *Old Age Security Act*. Note that the Minister may waive this requirement in certain situations: see s. 11(3.1) and 11(4) of the *Old Age Security Act*.

yearly. I saw an application dated October 8, 2010. He referred to applying again in 2018.⁸

[18] This is different from entitlement to an OAS pension. Once a person is entitled to an OAS pension, the Minister does not reassess it yearly. The recipient does not need to apply again. However, the Minister can reassess entitlement later if it appears that the recipient was not entitled to the benefit paid.⁹

[19] The GIS payment provisions in the *Old Age Security Act* (OAS Act) repeatedly stress that the GIS is payable only for a payment period.¹⁰ As noted, that payment period lasts a year. Each payment period ends on June 30.

[20] The legislation is clear that GIS entitlement is assessed yearly. To confirm the scope of my decision in this appeal, it helps to look at the reconsideration decision. Unfortunately, there appear to have been two reconsideration decisions. Both decisions are dated March 15, 2022. Neither decision says that it replaces or amends the other.¹¹ To complicate matters further, each party relied on a different reconsideration decision.

[21] The Claimant relied on what I will call “Version 1”.¹² The Minister relied on what I will call “Version 2”.¹³ I note that only Version 2 appeared in the Minister’s reconsideration file. The Minister said Version 1 was issued in error and that Version 2 was sent out as a correction on the same day.

[22] However, I do not need to decide whether Version 1 or Version 2 is the actual reconsideration decision. Both Version 1 and Version 2 arrive at the same conclusion. They share many common elements. In both Version 1 and Version 2, the Minister said:

- the Claimant was no longer entitled to receive the GIS as of May 2017.
- the Claimant had been overpaid for the months of May 2017 and June 2017.

⁸ See AD7-8 and AD25-95.

⁹ See s. 37 of the *Old Age Security Act* and s. 23 of the *Old Age Security Regulations*. The Federal Court of Appeal affirmed this power in *Canada (Attorney General) v Burke*, 2022 FCA 44.

¹⁰ See, for example, ss. 11(1), 11(2), 11(3.1), 11(4), and 11(5) of the *Old Age Security Act*.

¹¹ See GD1-11 and GD2-124.

¹² This decision appears at GD1-11.

¹³ This decision appears at GD2-124.

- the decision was based on the Claimant's "primary residence" being in the Philippines.
- based on his "residence situation," the Claimant's entitlement could change "in the future."¹⁴

[23] The Minister cited the same elements in the initial denial letter of December 31, 2020. The reconsideration decisions both flowed from that same December 2020 denial.¹⁵

[24] I am not aware of any binding decisions that compel the Tribunal to assess GIS eligibility up to the reconsideration decision or the hearing dates. In fact, a recent Tribunal decision explicitly considered only one payment period.¹⁶

[25] With these factors in mind, and the interests of fairness, I have limited the scope of my decision to the payment period ending on June 30, 2017.

Issues

[26] The issues in this appeal are:

- a) Was the Claimant absent from Canada for more than six consecutive months during the payment period of July 2016 to June 2017?
- b) Did the Claimant continue residing in Canada throughout the payment period of July 2016 to June 2017?
- c) Given the answers to the above two questions, what is the Claimant's GIS entitlement for the payment period of July 2016 to June 2017?

¹⁴ See GD1-12 and GD2-124.

¹⁵ See GD1-11, GD2-73, and GD2-124.

¹⁶ See *DW v Minister of Employment and Social Development*, 2022 SST 1172. Although other Tribunal decisions are not binding, they can be persuasive.

Analysis

[27] The *Old Age Security Regulations* (OAS Regulations) say that a person is **present** in Canada when they are physically present in any part of Canada.¹⁷ This means a person is **absent** from Canada if they are not physically present in any part of Canada.

[28] Being resident in Canada is different from being present in Canada. A person **resides** in Canada if they make their home and ordinarily live in any part of Canada.¹⁸

Was the Claimant absent from Canada for more than six consecutive months during the payment period of July 2016 to June 2017?

[29] I find that the Claimant was not absent from Canada for more than six consecutive months. I will now explain why.

[30] The GIS cannot be paid to someone who is “absent” from Canada for extended periods. The key provision in the OAS Act is section 11(7)(c), which reads as follows:

(7) No supplement may be paid to a pensioner for:

[...]

(c) any month throughout which the pensioner is absent from Canada having commenced to be absent from Canada either before or after becoming a pensioner and having remained outside Canada before that month for six consecutive months, exclusive of the month in which the pensioner left Canada...

[31] According to the Claimant’s passport, he was in the Philippines between October 25, 2016, and May 22, 2017. He took steps to remain legally in the Philippines during that period. He had been in Canada for several years before that. He returned to Canada on May 23, 2017. He then remained in Canada until returning to the Philippines on October 25, 2017.¹⁹

¹⁷ See section 21(1)(b) of the *Old Age Security Regulations*.

¹⁸ See section 21(1)(a) of the *Old Age Security Regulations*.

¹⁹ See GD2-41 and GD2-85. At AD25-9, the Claimant suggests he was in the Philippines until May 23, 2017. This likely accounts for the trip back to Canada. But the one-day difference is not material.

[32] This means the Claimant was absent from Canada for six complete calendar months (November 2016 through April 2017) up to the end of the relevant payment period. He was also absent from Canada for part of October 2016 and part of May 2017.

[33] Applying section 11(7)(c) of the OAS Act to these absences, the Claimant would not have been eligible for the GIS in May 2017 had he been absent from Canada for that entire month. However, he was present in Canada for part of May 2017. This means his lengthy **absence** from Canada did not make him ineligible for the GIS in May 2017 or June 2017.

[34] However, this finding only pertains to one aspect of the Claimant's GIS eligibility. I must now consider whether his **residence** makes him ineligible for the GIS during the July 2016 to June 2017 payment period.

Did the Claimant continue residing in Canada throughout the payment period of July 2016 to June 2017?

[35] I find that the Claimant resided in Canada until at least the end of June 2017. That means he remained eligible for the GIS through the end of June 2017. I will now explain how I made that finding.

[36] The key provision in the OAS Act is section 11(7)(d), which reads as follows:

(7) No supplement may be paid to a pensioner for:

[...]

(d) any month throughout which the pensioner is not resident in Canada, having ceased to reside in Canada, either before or after becoming a pensioner, six months before the beginning of that month...

[37] To determine whether this section makes the Claimant ineligible for the GIS, I must decide when he was resident in Canada.

[38] Federal Court of Canada decisions are binding on the Tribunal. When I am deciding whether the Claimant resided in Canada, I must look at both the overall picture

and the factors set out in Federal Court decisions such as *Ding*. I will call these factors the *Ding* factors. The *Ding* factors include:²⁰

- where he had property, like furniture, bank accounts, and business interests,
- where he had social ties, like friends, relatives, and membership in religious groups, clubs, or professional organizations,
- where he had other ties, like medical coverage, rental agreements, mortgages, or loans,
- where he filed income tax returns,
- what ties he had to another country,
- how much time he spent in Canada,
- how often he was outside Canada, where he went, and how much time he spent there,
- his lifestyle in Canada, and
- his intentions.

[39] This is not a complete list. Other factors may be important to consider. I must look at all of the Claimant's circumstances.

[40] The facts in this case are largely undisputed. Rather, the parties differ in how the law applies to those facts. Before looking at the law, I will outline the key events around the July 2016 to June 2017 payment period.

– **The key events around the payment period**

[41] I see no suggestion that the Claimant resided in any other country besides Canada or the Philippines. This means that his October 25, 2016, arrival in the Philippines marks a turning point. Before then, he had not been in the Philippines since April 22, 2010.²¹ I see little evidence tying him to the Philippines during that period of more than six years. In fact, he seemed to have spent little time outside Canada at all.²²

²⁰ See *Canada (Minister of Human Resources Development) v Ding*, 2005 FC 76. See also *Valdivia De Bustamante v Canada (Attorney General)*, 2008 FC 1111; *Duncan v Canada (Attorney General)*, 2013 FC 319; and *De Carolis v Canada (Attorney General)*, 2013 FC 366.

²¹ See AD25-8 and GD2-43.

²² See GD2-85.

[42] The Claimant married his previous companion on April 28, 2007. They were still married when he originally applied for the GIS on October 8, 2010. They lived together in Ontario at that time.²³ However, by 2016, that relationship appears to have ended. All his references to a partner from 2016 forward are to FP. In 2021, he described his marital status as both separated and living common law.²⁴

[43] On December 7, 2016, the Claimant and FP signed a 6-month lease for an apartment in the Philippines. According to the apartment owner, the Claimant and FP lived in the apartment while they were building a house of their own.²⁵ The Claimant later said that December 2016 was the start of their common-law relationship.²⁶

[44] As noted, the Claimant left the Philippines for Canada on May 22, 2017. He did not return to the Philippines until October 25, 2017. However, on August 19, 2017, FP gave birth to a son. As FP named her son after the Claimant, I will refer to her son as “Junior”.²⁷ The Claimant also said Junior was his son.²⁸ On October 20, 2017, the Claimant executed a will. He named FP as the main beneficiary, with Junior as the first alternate beneficiary.²⁹

[45] In subsequent years, the Claimant typically went to the Philippines in October and returned to Canada the following May.³⁰ FP appears to have remained in the Philippines with Junior.

– **Applying the *Ding* factors to the facts during the payment period**

[46] I see no suggestion that the Claimant was anything but a visitor to the Philippines in the months leading up to December 2016. He had no property or significant social ties there. He had spent essentially all his time in Canada since April 2010. However, beginning in December 2016, the picture becomes less clear.

²³ See AD7-8 to AD7-9.

²⁴ See GD2-82 and GD2-109.

²⁵ See AD7-2 to AD7-5.

²⁶ See GD2-75, GD2-86, and AD25-9.

²⁷ See AD4-56.

²⁸ See, for example, GD6-43, GD6-44, and AD25-95.

²⁹ See AD31-6 to AD31-10.

³⁰ See AD25-9.

[47] Starting in December 2016, some *Ding* factors began to favour a change in the Claimant's residency. But some *Ding* factors continued pointing to Canadian residency. I will now review all these factors.

The Claimant's property

[48] This factor favours Canadian residency.

[49] Most of the Claimant's property, and virtually all the total value of his property, was in Canada during the payment period.

[50] The Claimant's physical property appears to have been primarily in Canada throughout this period. He continued to own the house in Ontario where he has stayed since 2004.³¹ He did not rent out his house when he was absent from Canada. He said the utilities and insurance for that house remain in his name.³²

[51] The Claimant was building a home with FP in the Philippines between December 2016 and May 2017.³³ He later described it as FP's "one-bedroom mini house."³⁴ For clarity, I will refer to it as the Mini-House. He later said FP's other family members did most of the work on the Mini-House, although he helped finance it. He described it as a very modest and temporary structure that did not conform with building codes.³⁵ The water service to the Mini-House was only in FP's name.³⁶

[52] The Claimant said that FP was effectively the owner of the Mini-House, although the land legally belonged to others. He said FP made the decisions about the Mini-House, including decisions about who would stay in it. FP has made it available to other family members. He said the Mini-House was built for FP and not for him. He said local

³¹ See GD2-75, GD6-42, AD30-11, and AD30-113.

³² See GD6-44, AD30-93, and AD30-113.

³³ See AD7-4 and AD7-7.

³⁴ See AD30-114.

³⁵ See AD30-94.

³⁶ See GD10-28 to GD10-31.

authorities consider FP to be the head of the Mini-House household. He said he was not allowed to own property in the Philippines.³⁷

[53] After the payment period in question, the Claimant said he usually stayed in a home owned by FP's parents while in the Philippines (the In-Law House). He financed many improvements to the In-Law House.³⁸

[54] In December 2017, FP, the Claimant, and the effective landowner (FP's aunt) signed a Land Use Agreement regarding the Mini-House.³⁹ It is not clear to me why the Claimant signed the Land Use Agreement. He said he had no interest in the Mini-House. He said he did not stay there. However, even if he had an ownership interest in the Mini-House, his other property holdings in Canada dwarfed it. I also note that the Land Use Agreement was not signed until after the payment period in question.

[55] The Claimant had a car in Canada. He said he did not own a car in the Philippines: he depended on public transit or a small motorbike. He said he kept the majority of things like furniture, appliances, and utensils in Canada. He said his only personal possessions in the Philippines were clothes.⁴⁰

[56] The Claimant had a bank account, brokerage account, and two credit cards in Canada.⁴¹ In July 2021, he denied having any such accounts outside Canada.⁴² However, in November 2018, he said he had a joint bank account with FP in the Philippines.⁴³ It is unclear whether this account existed during the payment period. He denied having any business interests in either country.⁴⁴

[57] Overall, the Claimant's property in Canada was more extensive and would have been worth far more than what he owned in the Philippines.

³⁷ See AD30-94 to AD30-95.

³⁸ See GD6-43 and AD30-93.

³⁹ See AD7-6 and AD7-7.

⁴⁰ See GD4-42, GD6-43, AD30-113, and AD30-114.

⁴¹ See GD2-75, GD6-43, and AD30-113.

⁴² See AD30-114.

⁴³ See AD30-97.

⁴⁴ See AD30-113 and AD30-114.

The Claimant's social ties

[58] The Claimant's social ties are more difficult to evaluate. His social ties were stronger in Canada at the start of the payment period. But his social ties to the Philippines increased during and immediately after the payment period.

[59] The Claimant had family members in Canada. His sister and niece lived near his Ontario home. He said he visited his niece; she is also the executrix of his estate. His sister has apparently named him as her executor. The Claimant did not mention any other relatives in Canada.⁴⁵

[60] The Claimant described some other social ties in Canada. He belonged to a local "Golden Age" club. He said he volunteered at the church across the street. He described a very close relationship with a friend near his Ontario home: they spent several days together every week.⁴⁶ He referred to other friends in Canada. He arranged with neighbours to keep an eye on his house. He said he was also connected to the Philippine community near his Ontario home.⁴⁷

[61] The Claimant's social ties considerably changed in December 2016, when he and FP started a common-law relationship in the Philippines. FP appears to have a large family in the area. FP's family is important to her: the Claimant later said her family members often use the Mini-House and he must stay at the In-Law House.⁴⁸

[62] The Claimant's social ties changed even more with the birth of Junior on August 19, 2017.⁴⁹ While this was after the payment period, FP and the Claimant would likely have been aware of the pregnancy during the payment period. The payment period ended less than two months before Junior was born.

[63] The Claimant's ties to FP and Junior are very important to him. In October 2017, shortly after the payment period ended, he signed a will that named FP as the

⁴⁵ See GD6-42 and AD30-113.

⁴⁶ See GD6-42, GD6-43, and AD30-113.

⁴⁷ See GD6-44.

⁴⁸ See AD30-94.

⁴⁹ See AD4-56.

beneficiary of his estate (after debts and expenses). Junior was the alternate beneficiary if FP predeceased the Claimant. The next alternate beneficiaries were Junior's children (if he had any). The last alternate beneficiary was the Claimant's daughter "H". I saw no other references to H. It is not clear if H lives in Canada, or if the Claimant has any other relatives in Canada or elsewhere. He did not name his sister or niece as alternate beneficiaries.⁵⁰

[64] In October 2018, the Claimant referred to PP as his daughter for the first time. At that time, PP was already attending a school in the Philippines.⁵¹ In 2021, he said he financially supported FP, Junior, and PP.⁵² Although I saw no other evidence about PP, it is reasonable to infer that she is FP's daughter from a previous relationship.

[65] The Claimant denied belonging to any professional, social, or recreational organizations in the Philippines.⁵³

The Claimant's other ties

[66] The Claimant's living arrangements during this period favour Philippine residency. However, the other ties under this factor continue to favour Canada.

[67] The Claimant and FP rented an apartment together in the Philippines from December 9, 2016, to June 9, 2017. As noted, the Claimant left the Philippines on May 22, 2017, and did not return until more than five months later.⁵⁴ Still, he rented an apartment in the Philippines for six months and cohabited there with FP for more than five months. This was longer than he was in Canada during the payment period.

[68] The Claimant had both private and provincial medical coverage in Canada. He said he did not have any medical coverage in the Philippines. He had to pay for anything that his Ontario health insurance did not cover. He noted that he had no residency status in the Philippines. He did not receive benefits of any sort there, despite

⁵⁰ See AD31-6 to AD31-10.

⁵¹ See AD31-15 to AD31-17.

⁵² See AD30-114.

⁵³ See AD30-114.

⁵⁴ See AD7-2 to AD7-5.

being a senior citizen. He had an Ontario driver's licence. He also had car and home insurance in Ontario.⁵⁵

Tax returns

[69] This factor favours Canadian residency. The Claimant filed Canadian tax returns for 2018 through 2020. He said he also filed a Canadian tax return for 2017.⁵⁶ I see no evidence of any tax activity in the Philippines. He said he was not subject to income tax there.⁵⁷ He has an "Alien Certificate of Registration" which shows that he was a "tourist" in the Philippines.⁵⁸

Ties to another country

[70] I do not see this factor as persuasive. Before starting his relationship with FP, the Claimant might have had some weak ties to the Philippines.

[71] The Claimant's estranged wife is from the Philippines. That was where they married. He spent at least one extended period there in the past.⁵⁹ As noted, he was active in the Philippine community near his Ontario home. But these factors do not have much relevance to the payment period. Any ties he had to the Philippines in the payment period are already covered by other *Ding* factors.

Time spent in Canada/Frequency of time outside Canada

[72] These factors are intertwined. I find that they slightly favour residency in the Philippines.

[73] For the payment period in question, the Claimant spent about five months in Canada. He spent the rest of the payment period in the Philippines. Before the payment

⁵⁵ See GD6-42, GD6-43, GD6-44, AD30-113, and AD30-114.

⁵⁶ See GD2-123, GD6-60 to GD6-66, AD30-92, and AD30-93.

⁵⁷ See AD30-112.

⁵⁸ See AD10-61.

⁵⁹ See AD7-9 and AD30-13.

period, he had spent virtually all his time in Canada for the previous six years. However, he only left Canada once during the payment period.

Lifestyle in Canada

[74] This factor favours residency in Canada.

[75] The Claimant appears to live a very settled and rooted life when he is in Canada. He had been in the same home for many years. He described making extensive improvements to it. His lifestyle here appears to have been very stable and comfortable.⁶⁰

[76] The Claimant's Canadian lifestyle contrasted significantly with his lifestyle in the Philippines. His lifestyle in the Philippines was less settled.

[77] I see little evidence about the Claimant's lifestyle in the apartment he and FP started renting in December 2016. However, as the lease was only for six months, this was not a permanent arrangement. They did not renew the lease. He did not spend all his time in that apartment. A January 2017 photo shows him at the In-Law House.⁶¹

The Claimant's intentions

[78] This factor favours residency in Canada.

[79] The Claimant is adamant that he always intended to, and did, reside in Canada.⁶² He explained that his living arrangements flowed from health concerns. He wanted to avoid the colder months in Canada and the hottest months in the Philippines.⁶³

[80] I also note that the Claimant applied for proof of Canadian citizenship on Junior's behalf. He said FP and Junior would eventually move to Canada. He said he obtained their passports in preparation for this. While this was several years after the payment

⁶⁰ See GD6-42, AD30-109, and AD30-110.

⁶¹ See AD10-65.

⁶² See, for example, GD6-42.

⁶³ See GD6-44.

period ended, it reinforces both his intentions and the strength of his ties to FP and Junior.⁶⁴

Weighing the Ding factors

[81] Determining the Claimant's residency is not easy. Some *Ding* factors support Canadian residency, while others could support residence in the Philippines. In some cases, the factors changed over time. Some factors are more important than others in determining his residency. I find his social ties to be especially important. That factor covers his relationship with both FP and Junior. Those relationships have had a very strong impact on his decisions and lifestyle.

[82] However, I must look at the payment period in question. During that time, Junior was not yet born. FP and the Claimant were likely aware of FP's pregnancy before July 2017, but I cannot say exactly when that awareness kicked in.

[83] Junior's birth in August 2017 and the naming of Junior after the Claimant are significant events. The Claimant's October 2017 will and his return to the Philippines that month are also significant. They both showed the strength of his ties to FP and Junior. While these events demonstrate strong social ties to the Philippines, they did not crystallize before July 2017.

[84] During the payment period, the only *Ding* factor clearly in favour of residency in the Philippines was the amount of time spent there by the Claimant. He was there for more than half of the payment period. His social and other ties reveal a mixed picture by the end of June 2017. While he had a settled relationship and living arrangements for nearly six months in the Philippines, his many ongoing ties to Canada offset this. He had friends, family, and community involvement in Canada. He had insurance, health care, and licensing in Canada.

[85] The other *Ding* factors all favour Canadian residency. The Claimant's property, in particular, was almost completely in Canada. He had a settled home and lifestyle there.

⁶⁴ See AD10-52, AD10-60, AD10-62, and AD10-63.

He paid taxes there. He intended to remain a Canadian resident. He intended to bring FP and Junior to Canada eventually. While I do not place too much weight on intention in this case, I still must consider it. His intention again serves to affirm the importance of his social ties to FP and Junior.

[86] Ultimately, I am not persuaded that the Claimant **resided** in the Philippines by the end of June 2017. While he spent more than half of that payment period in the Philippines, I cannot base my decision on that fact alone. Looking at the bigger picture, I find that he continued to reside in Canada at that time.

[87] Despite this conclusion, I must stress that it only applies up to the end of June 2017. As noted above, the Claimant's social ties appear to have changed considerably by the time he returned to the Philippines in October 2017. Those ties are especially important in the context of this case. But speculating on whether he remained a Canadian resident after June 2017 is beyond this decision's scope.

What is the Claimant's GIS entitlement for the payment period of July 2016 to June 2017?

[88] As the Claimant continued to be a Canadian resident through the end of June 2017, he remained entitled to the GIS for that entire payment period. Specifically, as the Minister did not pay him the GIS for May 2017 and June 2017, he is entitled to receive GIS payments for those months.

[89] However, I am not making any findings on the Claimant's eligibility or entitlement to the GIS for any subsequent periods.

Conclusion

[90] The appeal is allowed. The Claimant is entitled to the GIS for the entire payment period of July 2016 to July 2017. This means he is owed the GIS for May 2017 and June 2017.

Pierre Vanderhout
Member, Appeal Division