



Citation: *MS v Minister of Employment and Social Development and SS*, 2024 SST 1400

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: M. S.

Respondent: Minister of Employment and Social Development

Added Party: S. S.

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated February 6, 2024 (issued by
Service Canada)

Tribunal member: Jean Lazure

Type of hearing: Teleconference

Hearing date: November 12, 2024

Hearing participants: Appellant
Added Party

Decision date: November 14, 2024

File number: GP-24-660

Decision

[1] The appeal is dismissed.

[2] I have no jurisdiction over this matter, considering the grounds for appeal put forth by the Appellant M. S. and the Added Party S. S. This decision explains why I am dismissing the appeal.

Overview

[3] On April 14¹ and June 15, 2022², the Minister sent the Appellants letters advising them that CRA had reassessed their 2020 combined income³ and that this change resulted in the following overpayments: \$2,811 for M. S. and \$3,060 for S. S. for the period from July 2021 to June 2022.

[4] The Appellant and Added Party asked⁴ for a reconsideration of this decision. The Minister maintained⁵ his original decision upon reconsideration. The Appellant and Added Party appealed⁶ that decision to the General Division of our Tribunal.

[5] The Appellant and Added Party are essentially appealing the Minister's decision on the basis of compassionate grounds and of financial difficulties they would suffer if they had to repay the overpayment.

[6] The Minister says that "While the [parties have] offered a number of compassionate grounds and reasons as to why they should not repay their respective

¹ This is found on the file at page GDJ4-2.

² Page GD5-1.

³ The parties' combined income for 2020 increased from \$11,983 to \$26,666, as the Added Party's income increased from \$10,007 to \$24,690.

⁴ Page GD2-12.

⁵ The Appellant's reconsideration request was received on September 6, 2022, and is found on pages GD1-12 and GD2-17. The Added Party's reconsideration request was received on May 25, 2022, and is found on page GDJ1-11 and GDJ2-18.

⁶ The Appellant's appeal was received on April 11, 2024, and is found on page GD1-1. The Added Party's appeal, before it was joined to the Appellant's appeal, was received on April 4, 2024, and is found on page GDJ1-1.

overpayments, there are no provisions in either the OAS Act or OAS Regulations that allow the Minister to consider these factors when determining entitlement to income-tested benefits. The only factors that determine the entitlement to the GIS is marital status and income.”⁷

Reasons for my decision

[7] The Appellant and Added Party provided, both in their request for reconsideration and in their appeal, a number of reasons why they should not have to or cannot afford to pay back the overpayments. Among other reasons, they listed the following:

- “All stated above (...) shows compassionate grounds, and being fair and reasonable that I request the refund of the \$3,060 GIS be cancelled, and be given any other benefits available.”⁸
- “Unfair and unreasonable for me to repay overpayment of GIS whereas plane loads of refugees from a country on arrival in this country each adult given \$2500 (C\$) and children \$1500 (C\$).”⁹

[8] At the hearing, the Added Party added a few reasons that were more political in nature, namely the following:

- “If our government here can give \$20 billion to Ukraine, Israel, financing wars, when there is a consensus of opinion that we should not be involved in any war. Recently, our government has given over \$43 million for causes in Africa, for AIDS”;
- “How the Deputy Prime Minister Freeland, she is bringing people in Canada from Ukraine, of her nationality, on arrival immediately an adult is given \$2,500 and a child \$1,500, and we are being asked to refund”;

⁷ Page GD8-16.

⁸ Page GD1-4.

⁹ Page GD1-5.

[9] The Added Party also mentioned on a few occasions in his testimony how his wife and him came to Canada with nothing and worked hard their whole lives to build up this little bit of pension they had accumulated.

[10] I have some for the Added Party and Appellant. They both seemed like honest people. It felt poorly for their plight.

[11] However, as I pointed out to the parties during a case conference¹⁰, I have no jurisdiction over overpayments, their enforcement, their payment, or their forgiveness. Section 37 (4), specifically paragraph c), reads as follows¹¹:

“Remission of amount owing

(4) Notwithstanding subsections (1), (2) and (3), where a person has received or obtained a benefit payment to which that person is not entitled or a benefit payment in excess of the amount of the benefit payment to which that person is entitled and the Minister is satisfied that

(c) repayment of the amount or excess of the benefit payment would cause undue hardship to the debtor, or

the Minister may, unless that person has been convicted of an offence under any provision of this Act or of the [Criminal Code](#) in connection with the obtaining of the benefit payment, remit all or any portion of the amount or excess of the benefit payment.”

[12] With the above section, the *Old Age Security Act* provides this power to the Minister, in exclusive fashion. I simply do not have the power to do what the parties want me to do. The law does not give me this power. For this reason, I have no choice but to dismiss the Appellant’s’ appeal.

[13] As I said above, I have some sympathy for the Appellant and Added Party. With that said, unfortunately, I also have no jurisdiction in equity. I must stick to the law and cannot allow the appeal simply because of sympathy towards them or because of a

¹⁰ Held on June 18, 2024.

¹¹ Old Age Security Act (R.S.C., 1985, c. O-9)

belief that the law is unfair. Under the law, I cannot give the Appellant and Added Party the relief they seek.

Conclusion

[14] I have no jurisdiction over this matter, considering the grounds for appeal put forth by the Appellant and the Added Party.

[15] This means the appeal is dismissed.

Jean Lazure

Member, General Division – Income Security Section