



Citation: *FF v Minister of Employment and Social Development*, 2024 SST 1652

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: F. F.

Respondent: Minister of Employment and Social Development
Representative: Neil Wood

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated December 20, 2023 (issued
by Service Canada)

Tribunal member: Carol Wilton

Type of hearing: Teleconference

Hearing date: November 5, 2024

Hearing participants: Appellant
Minister's representative

Decision date: November 25, 2024

File number: GP-24-494

Decision

[1] The appeal is allowed.

[2] The Appellant, F. F., is eligible for an increase to his Old Age Security (OAS) pension. Payments start as of December 2011. This decision explains why I am allowing the appeal.

Overview

[3] The Appellant was born in Egypt in November 1946. He emigrated to Canada and, in 1983, began contributing to the Canada Pension Plan. In June 2011, he applied for the OAS pension. Included in his application package was information that he had served as a missionary with X from June 1999 until March 2008.¹

[4] As of December 2011, the month after he turned 65, the Minister approved the Appellant's OAS application at the rate of 16/40ths, based on his 16 years in Canada.²

[5] In addition to his time in Canada, the Appellant testified that he spent eight years as a missionary from June 14, 1999, to March 31, 2008.³ From 1999 to 2005, he worked for a non-profit in Cyprus. From 2005 to 2008, he was working in Egypt but being paid by the same people as when he was living in Cyprus. In addition, from June 1, 2008 to January 31, 2011, he worked for X. This is a non-profit Christian organization.⁴

[6] Canada has a Social Security Agreement with Cyprus.

[7] The Appellant says that for the purposes of his OAS pension, the amount of time he worked in Cyprus should be added to the years he worked in Canada. He says he never contributed to the social security system in Cyprus.

¹ See GD2-9, 20.

² See GD4-2.

³ See also GD2-40.

⁴ See GD2-20.

[8] The Minister says the Appellant did contribute to the social security scheme of Cyprus. Therefore, the years he spent working abroad can't be counted as residence in Canada for the purposes of the OAS pension. The Appellant should apply to the social insurance authorities in Cyprus for payment of his old age pension for the years he worked there.

What the Appellant must prove

[9] For the Appellant to succeed, he must prove that he is entitled to an increase in his OAS pension based on his years working as a missionary abroad.

Matters I have to consider first

The Appellant's reconsideration request

[10] In June 2011, the Appellant applied for an OAS pension and a Guaranteed Income Supplement.⁵

[11] The usual deadline for requesting reconsideration of a decision from the Minister is 90 days. However, the OAS Act allows the Minister to vary that deadline.⁶ If an appellant takes more than 90 days to submit a reconsideration request, the Minister must be satisfied that there is a reasonable explanation for requesting a longer period and that the person has shown a continuing intention to request a reconsideration.⁷

[12] If the reconsideration request reaches the Minister more than 365 days after the day the appellant is notified of the initial decision, the Minister must be satisfied that the request has a reasonable chance of success. The Minister must also be satisfied that there would be no prejudice to any party by allowing a longer period for the request.⁸

[13] The Minister received the Appellant's request for reconsideration on May 1, 2023.⁹ It reviewed the request and sent a reconsideration decision letter in January

⁵ See GD2-10, 25.

⁶ Subsection 27.1 of the OAS Act

⁷ Subsection 29.1(1) OAS *Regulations* (Regulations)

⁸ Paragraph 29.1(2)(a) of the *Regulations*

⁹ See GD2-7.

2024.¹⁰ It maintained its decision to deny the Appellant an increase in his OAS pension. I find that the Minister was aware that the reconsideration request was late and decided to proceed anyway. It allowed a longer period to make the request.

Only one matter in dispute

[14] When the hearing ended, the parties agreed on all points except whether the income tax the Appellant paid in Cyprus would have entitled him to social insurance benefits there.¹¹ There was no documentary evidence about this in the material before me.

[15] The Minister could have asked the government of Cyprus about the Appellant's entitlement to Cypriot old age benefits. It did not do so. Instead, the Minister suggested that the Appellant apply for benefits in Cyprus. He didn't because he's sure he didn't qualify for them. Among other jobs, he ran the business office of his organization in Cyprus, and so was in a position to know about his entitlement.

Reasons for my decision

[16] A person is resident in Canada if they make their home and ordinarily live in any part of Canada.¹² OAS payments are based on years of residence in Canada.

[17] Under certain circumstances, an absence from Canada of a person resident in Canada is not considered to have interrupted their residence here. This includes the absences of a person "working as a missionary with any religious group or organization."¹³

[18] Sometimes people resident in another country pay into the social security system abroad. If there's a social security agreement between that second country and Canada, a person resident in Canada can collect social security benefits from that

¹⁰ See GD2-7.

¹¹ The appeal file contains four Notices of Assessment from the Cypriot authorities for the years 2002 to 2005. See GD2-34-37.

¹² Subsection 21(1) of the OAS Regulations (Regulations).

¹³ Section 21 and subparagraph 21(5)(b)(vi) of the Regulations.

second country after returning here. If they do so, they can't also collect, say an OAS pension, from Canada for the same period of time. (This is to prevent "double dipping"). In addition, the person won't be considered resident in Canada for the period they lived abroad and paid into another country's social security system.¹⁴

[19] A person who has established residence in Canada but works as a missionary elsewhere must come back to Canada within six months after the end of their employment abroad. Otherwise, their residence will be considered as interrupted by their stay abroad.¹⁵

What the Appellant says about his time in Cyprus

[20] The Appellant stated that he worked for an organization called X as a Presbyterian missionary in Cyprus from June 14, 1999, to March 31, 2008. Then he worked in Egypt, also as a missionary. When in Egypt during this period, he was also supervising the organization's Cyprus office. He visited Cyprus twice a month. He was paid by the same people as when he was working in Cyprus.

[21] The Appellant was adamant that as an employee of a non-profit, he didn't pay into the Cypriot social insurance scheme.

[22] From June 2008 to January 2011, the Appellant worked for another religious organization in Egypt called X.¹⁶ He stated that he was engaged in missionary work there as well. He was business director for the organization. He also supervised missionaries who taught classes on the Bible in northern Africa.

¹⁴ Section 40 of the OAS Act.

¹⁵ Paragraph 21(5)(b) of the Regulations.

¹⁶ "X" stands for "X." The Appellant testified that he didn't claim that the period from 2008 to 2011 should be added to his years of residence for OAS purposes because he didn't think the Minister would accept the claim.

[23] In February 2011, the Canadian government advised the Appellant to return to Canada because of civil unrest in Egypt.¹⁷ He has been resident in Canada since February 2011.

What the Minister's representative says

[24] The Minister's representative accepted that the Appellant worked as a missionary from June 1999 to January 2011. He agreed that it didn't matter whether the Appellant was working for a *Canadian* missionary organization or not. He accepted that the Appellant returned to Canada within six months of the end of his employment.¹⁸

[25] The remaining question is whether the Appellant paid into the Cypriot social security system so as to be eligible for payment of an old age pension from Cyprus for the years, if any, he paid into the system.

[26] The Minister's position was that the Appellant had enough years of contributions without counting his time overseas from 1999 to 2008 to meet the minimum number of years – 10 – to collect a partial OAS pension.¹⁹

[27] The Minister has an international operations department. It sends inquiries to foreign countries to ask, among other things, about benefits to which an appellant might be entitled from those countries. The Minister's representative stated that an inquiry like that had not been sent to Cyprus on behalf of the Appellant.

My findings

[28] I find that it is more likely than not that the Appellant was a missionary in Cyprus and Egypt from 1999 to 2008. I also find it more likely than not that he is not entitled to an old age pension from Cyprus. He had knowledge of the social security system in Cyprus. If he thought he was entitled to an old age pension from there, it seems likely that he would have applied for it.

¹⁷ See GD2-13, which shows the Appellant was evacuated from Egypt in early 2011.

¹⁸ As required by subsection 21(5) of the OAS.

¹⁹ OAS Act, subsection 3(2)

[29] The Appellant returned to Canada early in 2011, within six months of the end of his time as a missionary in Cyprus and Egypt.

[30] As the Minister has provided no evidence that the Appellant contributed to the social security system of Cyprus, I find that the Appellant is entitled to the OAS for the period from June 1999 to January 2008.

When payments start

[31] In addition to the OAS payments he has received since 2011, the Appellant is entitled to payment for the time he spent in Cyprus between 1999 and 2008. Payment should begin with the month after the deemed date of his application. That was November 2011, the month before he began receiving his OAS pension.²⁰

[32] The Appellant's stay in Cyprus and Egypt lasted from June 14, 1999 to March 31, 2008. This is 8 years, 9 months, and 17 days. In addition to what he has already received for his more than 16 years in Canada, the Appellant is entitled to payment of the OAS for 8 years, 9 months, and 17 days retroactive to December 2011.

Conclusion

[33] I find that the Appellant is eligible for an increase in his OAS pension.

[34] This means the appeal is allowed.

Carol Wilton
Member, General Division – Income Security Section

²⁰ See Section 8 of the OAS Act and subsections 5(1) and (2) of the Regulations.