[Translation]

Citation: *ED v Minister of Employment and Social Development*, 2025 SST 72

Social Security Tribunal of Canada
Appeal Division

Decision

Appellant:	E. D.
Respondent:	Minister of Employment and Social Development
Representative:	Érélégna Bernard

Decision under appeal:	General Division decision dated October 3, 2023 (GP-19-1602)

Tribunal member:	Jude Samson
Type of hearing:	In person
Hearing date:	October 21, 2024
Hearing participants:	Appellant Respondent's representative
Decision date:	January 31, 2025
File number:	AD-23-1018

Decision

[1] I dismiss the appeal of the Applicant, E. D. He has not demonstrated that he resided in Canada from December 6, 2012, to March 1, 2015. As a result, he must repay a portion of the Guaranteed Income Supplement paid to him by the Minister of Employment and Social Development.

Overview

[2] Starting in June 2009, the Minister paid the Applicant a full Old Age Security pension and the Guaranteed Income Supplement. However, the Minister then investigated the Applicant's eligibility for these benefits.

[3] The Minister ultimately found that the Applicant had not resided in Canada between December 6, 2012, and March 1, 2015. The Minister therefore concluded that the Applicant wasn't eligible for the Guaranteed Income Supplement between July 2013 and February 2015 and therefore claimed an overpayment.[1]

[4] The Applicant appealed the Minister's decision to the General Division of the Social Security Tribunal, but it dismissed his appeal.

[5] The Applicant then appealed the General Division's decision to the Appeal Division, and I gave him permission to appeal. Therefore, I determined the appeal as a new proceeding.[2]

[6] While I am sympathetic to the Applicant's situation, I dismiss his appeal.

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[1] Applicants are eligible for Guaranteed Income Supplement benefits during the month in which they cease to reside in Canada and the following six months: see section 11(7)(d) of the *Old Age Security Act*.
[2] See section 58.3 of the *Department of Employment and Social Development Act*. In fact, this proceeding has a much longer history, which I will detail below, insofar as it is relevant.

Preliminary matters

– **The Applicant was accommodated throughout the appeal process**

[7] At various times during the appeal, the Applicant requested accommodations for his numerous health problems.[3] I granted many of these requests, even though there was no medical evidence to support these problems.

[8] For example, I granted the Applicant extended time to present his evidence and arguments to the Tribunal. Moreover, before dismissing his Notice of Constitutional Question, I pointed out several shortcomings and gave him time to fix them.[4]

[9] Other accommodations were also granted during the hearing, including the following:

- A support person and a friend attended the hearing with the Applicant.[5]
- Numerous breaks were taken during the hearing, and I proposed several additional breaks, even though the Applicant refused them.
- The hearing was moved to the city where the Applicant lives and extended well beyond the scheduled time.
- Because the Applicant complained about the excessive number of documents in the appeal file, I asked the Applicant if he wanted to be given an abridged book of the key documents the Minister relied on in its written arguments, but he refused.
- The Minister's representative addressed the issues separately, and I often rephrased the arguments in plain language so that the Applicant could respond to one at a time.

[3] See, for example, the letter the Applicant submitted to the Tribunal at the start of the hearing: ADN25.
[4] See the Tribunal's letters dated April 2, 2024 (ADN7), and May 13, 2024 (ADN11).
[5] The Applicant insisted that his friend not give his name at the hearing.

- Because the Applicant seemed increasingly irritated by the arguments the Minister's representative presented, I asked if the representative would present her final arguments in writing.

[10] The Minister's representative should be thanked for remaining courteous and professional throughout the hearing, even if the Applicant did not always behave in the same way toward her.

– I added documents to the appeal file after the hearing

[11] Before the hearing, the Applicant complained that documents were missing from the appeal file.[6] I addressed his concerns and, if there were any additional documents missing, I invited him to give them to the Tribunal well in advance of the hearing.[7] I also offered assistance from Tribunal staff should further clarification be needed.

[12] During the hearing, however, the Applicant noted that there were still documents missing from the appeal file. However, the Applicant provided few details, and the examples he highlighted at the hearing were already in the appeal file.[8]

[13] In addition, the Applicant confirmed that he was not requesting permission to add any further documents to the appeal file.

[14] After the hearing, however, I searched the Applicant's files with the Tribunal (of which there are many) and found a document that had not been properly added to the General Division's file when it made its last decision in this case.[9]

[15] In short, the General Division first dismissed the Applicant's appeal in a decision made on September 20, 2018.[10] On November 21, 2018, the Applicant asked the

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[6] See ADN19.
[7] See ADN21.
[8] See also the Tribunal's letter dated July 19, 2024, where I attempted to address the Applicant's concerns about missing documents. I asked him to give the Tribunal a copy of all the missing documents by August 7, 2024 (ADN21).
[9] See the Tribunal's letter dated October 25, 2024.
[10] This decision was made as part of GP-17-2265.

General Division to rescind or amend its decision based on new evidence.[11] The General Division dismissed this application on January 30, 2019.

[16] The Applicant appealed both decisions of the General Division to the Appeal Division.[12] I dealt with both cases in a single decision made on September 27, 2019.

[17] Since I was granting the appeal on the first decision of the General Division and sending the file back to the General Division for a hearing, I concluded that the second appeal had become moot. In short, the Applicant's new evidence would be examined at the new hearing.

[18] Unfortunately, it appears that the evidence the Applicant filed as part of the application to rescind or amend was not added to the new General Division file, GP-19-602.

[19] I rectified this oversight by adding these elements to the present file. Before doing so, I asked the parties for their written arguments about these elements.[13] I took into account all the arguments received after the hearing. I did not deem it necessary to reopen the hearing in view of these arguments.

Issues

[20] The majority of the hearing was devoted to the following issues raised by the Applicant, which he described as preliminary and legal in nature:

a) Does the Appeal Division have jurisdiction in this case, since the Applicant filed an [translation] "application to cancel or [reopen] the investigation" rather than an application to the Appeal Division?

[11] The Tribunal assigned number GP-18-2636 to this application to rescind or amend.
[12] The Tribunal assigned numbers AD-19-290 and AD-19-490 to these appeals.
[13] See the Tribunal's letter dated October 25, 2024. The parties were already aware of these documents: see, for example, paragraph 9 of the Minister's written submissions at ADN22-7.

b) Am I in such a conflict of interest that I should recuse myself from deciding the appeal?

c) Are interlocutory decisions of the Tribunal void if they do not mention the name of the member who made them?

d) Should I grant the Applicant's no-evidence motion?

[21] Depending on the answers to these questions, I will then decide the substantive issue: did the Applicant reside in Canada within the meaning of the *Old Age Security Act* from December 6, 2012, to March 1, 2015?[14]

[22] During the hearing, I explained to the Applicant that there would be only one hearing. So, in addition to his arguments on the preliminary matters he had raised, I also wanted to hear his testimony on the substantive issue. He refused. Even when his arguments sounded like testimony, he denied that this was what he was providing.

[23] Before continuing, it should be pointed out that I also considered other, less central arguments the Applicant put forward, but dismissed them all. For example, the Applicant pointed out small errors that had crept into certain Tribunal documents, such as the date of the reconsideration decision appearing on the first page of the General Division decision dated October 3, 2023. While these errors are regrettable, they do not make the Applicant eligible for Guaranteed Income Supplement benefits.

Analysis

The Appeal Division has jurisdiction in this case

[24] The Applicant argued that the Appeal Division had no jurisdiction in this case because he filed an [translation] "application to cancel or [reopen] the investigation" rather than an application to the Appeal Division. I dismiss the Applicant's argument.

[14] In this context, residence in Canada is defined in section 21(1) of the *Old Age Security Regulations*.

[25] The Applicant argued that the Tribunal had erred in opening a file at the Appeal Division, and that the General Division was entitled to consider his application under the federal charter, the provincial charter, and the *Canada Evidence Act*.

[26] The Applicant's arguments on this issue were disordered and somewhat incoherent, especially when he stated that he had not appealed the General Division's decision and that the member of the General Division had appealed her own decision.

[27] As I acknowledged at the hearing, the General Division previously had the power to rescind or amend one of its own decisions **on the basis of new facts**. The Applicant has already submitted such an application, as described above. However, Parliament withdrew this power from the Tribunal in December 2022.[15] Moreover, the Applicant's complaints relate more to the General Division's procedure than to new facts.

[28] Instead, I tried to reassure the Applicant that I had the power to decide all the key issues that he raised as part of an appeal heard and determined as a new proceeding.[16]

[29] Importantly, the Applicant did not want to withdraw his appeal and did not want me to close the Appeal Division file by stating that the Tribunal had opened it in error. I suggested that he send all the documents to the General Division to review his [translation] "application to cancel or [reopen] the investigation." However, he insisted that I decide the issues raised in his appeal.

[30] In the end, I came to the following conclusions:

- The Applicant is dissatisfied with the General Division's decision dated October 3, 2023, and wants to challenge it.
- The Tribunal has only the powers that the law confers upon it. Though the Applicant states that the law authorizes him to submit his application to the

[15] See section 235 of the *Budget Implementation Act, 2021, No. 1*.
[16] See section 58.3 of the *Department of Employment and Social Development Act*.

General Division, he has not cited a specific statutory provision for doing so, nor am I aware of any such provision.

- After receiving the Applicant's [translation] "application to cancel or [reopen] the investigation," the Tribunal acknowledged receipt of an application to the Appeals Division.[17]

- I then granted the Applicant permission to appeal, and his application for permission therefore became a notice of appeal.[18]

- The Applicant then completed the "Application to the Appeal Division" form, in which he asked the Appeal Division for a remedy.[19]

[31] In view of these circumstances, I feel that the Appeal Division was right to open a file and that it has jurisdiction in this case.

I refused to recuse myself from the hearing

[32] At the hearing, the Applicant accused me of having a conflict of interest and asked me to recuse myself so that another member could decide his appeal. I refused. Here are the reasons for my decision.

[33] Before making my decision, I asked the Applicant to explain why he was accusing me of a conflict of interest. In response, he listed several requests he had made that I had refused, such as the following:

- I refused to give him legal aid (court-appointed lawyer).[20]

- I refused to put the proceeding on hold for an indefinite period.[21]

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[17] See the Tribunal's letter dated November 15, 2013.
[18] See the Tribunal's letter dated December 6, 2023; the reasons for this decision dated December 23, 2023; and sections 58.2(1) and 58.2(5) of the *Department of Employment and Social Development Act*.
[19] See ADN3, including the [translation] "APPENDIX TO THE APPLICATION FOR APPEAL OR COMPLIANCE ORDER AGAINST THE DECISION" at ADN3-7.
[20] See my decision dated April 2, 2024 (ADN7).
[21] See my decision dated April 18, 2024 (ADN9).

- I concluded that the notice of appeal involving the Charter did not meet the requirements of section 1(1) of the *Social Security Tribunal Regulations, 2022*.[22]

[34] Allegations of bias are serious, as they call into question the integrity of the Tribunal and its members. They should not be made lightly. Also, it is presumed that the Tribunal's members are impartial.[23]

[35] The legal test for proving a reasonable apprehension of bias is therefore high. It was stated in this way by the Supreme Court of Canada:[24]

> [W]hat would an informed person, viewing the matter realistically and practically—and having thought the matter through—conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly?

[36] I feel that the Applicant has not met the threshold necessary to prove that I should recuse myself from the hearing. In particular, he ignored the numerous rulings I made in his favour. For example, I granted a previous appeal and agreed to move the hearing to the city where he lives.[25] In addition, I gave him many opportunities to submit a Notice of Constitutional Question that met all the requirements of the law.

[37] Members make interlocutory decisions in all proceedings. The resulting decisions should be viewed with an open mind, without inappropriate or unjustified assumptions. Tribunals could not function if decision-makers had to recuse themselves after every interlocutory decision that displeased a party.

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[22] See ADN11.
[23] The Supreme Court of Canada discussed bias in *Committee for Justice and Liberty et al. v National Energy Board et al.*, 1976 CanLII 2.
[24] See *Committee for Justice and Liberty et al*. *v National Energy Board et al*., 1976 CanLII 2 at page 394. See also *Yukon Francophone School Board, Education Area #23 v Yukon (Attorney General)*, 2015 SCC 25 at paragraphs 20 to 26.
[25] See my decision dated September 27, 2019, made in AD-29-290 and AD-19-409, as well as ADN0A.

[38] It's obvious that the Applicant disagrees with some of the decisions I have made in the appeal. This in itself is neither proof of bias nor grounds for exclusion.[26]

[39] The Applicant has not proved that my previous interlocutory decisions would lead a reasonable person apprised of all the relevant circumstances to conclude that I failed to come to grips with the issues and decide them impartially and independently.[27]

The Tribunal's interlocutory decisions are valid

[40] The Applicant claims that some of the Tribunal's interlocutory decisions are invalid because they do not specify the name of the person who made the decision. For example, some of the Tribunal's letters begin as follows: [Translation] "The Tribunal member assigned to this appeal made the following decision."[28]

[41] I dismiss the Applicant's argument.

[42] First, the Tribunal acknowledged receipt of an application to the Appeal Division on November 15, 2023. The Applicant has known since my first decision, dated December 6, 2023, that I am the member assigned to his file.

[43] The Applicant has not given any reason to believe that decisions in his file were made by a person who is not a Tribunal member. On the contrary, I confirmed that I had made all the decisions in his file.[29]

The applicant's no-evidence motion is dismissed

[44] The Applicant has asked me to allow his appeal summarily because the Minister has not presented admissible evidence showing that he was not residing in Canada during the disputed period.

[45] I dismiss the Applicant's motion for three main reasons.

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[26] See *Murphy v Canada (Attorney General)*, 2023 FC 57 at paragraphs 15 to 25.
[27] See *Cojocaru v British Columbia Women's Hospital and Health Centre*, 2013 SCC 30 at paragraph 22.
[28] See ADN9, for example.
[29] See ADN13.

[46] First, the Applicant has not cited any statutory provision giving me the authority to allow an appeal summarily.

[47] In addition, the Applicant's argument is based on the assumption that the Minister has the burden of proving that the Applicant didn't reside in Canada (and not that the Applicant has the burden of proving that he did).

[48] However, the Federal Court has already decided this issue and concluded that the burden of proof is on the Applicant.[30] I have no choice but to follow these Federal Court decisions.

[49] Finally, the law imposed a requirement on the Applicant to provide certain notices to the Minister, such as when he got married and when he left Canada for extended periods.[31] However, the Applicant waited two years before informing the Minister that he had gotten married and never appears to have notified the Minister that he was absent from the country for an extended period.[32]

[50] I find it difficult to accept the Applicant's argument that I should impose the burden of proof on the Minister when the Applicant did not provide the notices that the law required him to provide.

[51] No-evidence motions can be important procedural tools in other contexts and before other tribunals. However, they don't form part of the proceedings of this Tribunal and cannot be transposed into this context as the Applicant hoped.

[52] I am therefore of the opinion that I must dismiss the Applicant's no-evidence motion.

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[30] See *De Carolis v Canada (Attorney General)*, 2013 FC 366 at paragraphs 27 and 32; *Saraffian v Canada (Human Resources and Skills Development)*, 2012 FC 1532 at paragraph 20; and *Gumboc v Canada (Attorney General)*, 2014 FC 185 at paragraph 46.
[31] See section 15(9) of the *Old Age Security Act* and section 25(1) of the *Old Age Security Regulations*.
[32] The Minister first learned in July 2015 that the Applicant had gotten married in March 2013: See the Supplement application the Minister received at GD2-357.

The Applicant has not demonstrated that he resided in Canada between December 6, 2012, and March 1, 2015

[53] The substantive issue in this case concerns the Applicant's eligibility for the Guaranteed Income Supplement.

[54] On several occasions, the Applicant stated that the Minister had not proved that he had been absent from Canada for more than six consecutive months.[33] Although this is one of the criteria allowing the Minister to suspend payment of the Guaranteed Income Supplement, it is not the criterion on which the Minister is relying in this case.[34]

[55] Instead, the Minister argues that the Applicant is not eligible for the Guaranteed Income Supplement because he did not **reside** in Canada during the disputed period.[35]

[56] The answer to this question therefore depends on the ability **of the Applicant** to demonstrate, on a balance of probabilities, that he resided in Canada during the disputed period.

– Many factors are considered when assessing a person's residence

[57] A person resides in Canada if they make their home and ordinarily live in any part of the country.[36]

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[33] See paragraph 28 at RA1-8, for example.
[34] The eligibility requirement concerning absences from Canada is provided for in section 11(7)(c) of the *Old Age Security Act*.
[35] The eligibility requirement concerning residence in Canada is provided for in section 11(7)(d) of the *Old Age Security Act*.
[36] See section 21(1)(a) of the *Old Age Security Regulations*.

[58] A person's residence is a largely factual issue that requires an examination of their whole context.[37] As part of this analysis, the following factors are assessed, established by the Federal Court in *Ding*:[38]

- real estate and personal property (for example, a house, furniture, car, business, bank account, credit card)
- social ties in Canada (for example, family members, participation in social clubs, religious organizations, and professional associations)
- other ties in Canada (for example, medical services, insurance policies, driver's licence, rental contracts, lease, loan agreement or mortgage, contracts, utility bills, participation in public services and programs, pension plans, and tax payments)
- ties in another country
- the time spent in Canada compared to other countries
- lifestyle (for example, language and culture)

[59] The weight given to each factor may differ from case to case.[39]

– **Certain factors support the Applicant's residence in Canada**

[60] I agree that the Applicant has demonstrated that he had certain ties in Canada during the disputed period.

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[37] See *Canada (Minister of Human Resources Development) v Ding*, 2005 FC 76 at paragraph 58; and *Canada (Minister of Human Resources Development) v Chhabu*, 2005 FC 1277 at paragraph 32.
[38] This is a plain-language version of the relevant factors, with a few examples. These factors appear in numerous decisions, including *Canada (Minister of Human Resources Development) v Ding*, 2005 FC 76 at paragraph 31.
[39] This is set out in *Singer v Canada (Attorney General)*, 2010 FC 607, confirmed by *Singer v Canada (Attorney General)*, 2011 FCA 178.

[61] The evidence presented by the Applicant in support of his case can be summarized as follows:

- On May 1, 2015, the Applicant stated that he had not left Canada for more than six months since 2008.[40]
- The Applicant states that his wife purchased a building in X in 2012, but that the building registration was delayed until 2015 due to problems caused by a land reform in Quebec.[41]
- The Applicant says that he paid for the insurance and telephone, and that he bought a refrigerator for this building, all during the disputed period.[42]
- The Applicant claims to have used this building's address on official documents and to have visited certain government offices during the disputed period.[43]

[62] In addition, the Applicant has submitted several photos and emails to show that he has participated in religious, community and cultural life in Quebec, as well as in political life at the provincial, federal and international levels.[44] I note that most of these emails do not refer to the disputed period, and that the photos don't indicate when they were taken.

[63] Although I have highlighted certain statements the Applicant made above, it should be noted that he often evaded questions and that the factors he presented were sometimes incoherent. As a result, I approached his statements with a degree of caution.

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[40] See GD2-59.
[41] See paragraph 21 at RA1-7, for example. I note that the documents relating to the ownership of this building are unclear and that the document at GD2-329 to GD2-330 contradicts the Applicant's assertion.
[42] See RA1-14 to RA1-16, RA1-19 to RA1-23, and RA1-27.
[43] See GD2-342, GD2-357 to GD2-359, RA1-17 to RA1-18, RA1-24 to RA1-26, and RA1-28.
[44] See, for example, the statement in paragraph 22 at RA1-7, as well as the photos and emails at GD2-380 to GD2-414, RA1-29 to RA1-33, RA1-37 to RA1-45, and IS5-5 to IS5-9.

[64] For example, the Applicant made different statements about the date and place of his marriage. First, he gave the Minister a certified copy of a marriage certificate attesting that he was married on March 22, 2013, in the Philippines.[45] However, at the hearing, he stated that this certificate was false and that he was married on March 8, 2013, in Macao instead.

[65] Overall, I agree that the Applicant had ties in Canada during the disputed period, including certain assets, social ties and contracts. However, the Applicant presented little convincing evidence for me to assess the strength of these ties. For how long, for example, was the Applicant at his house in Canada? Was his family near or far?

– **Other factors cast doubt on the Applicant's residence in Canada**

[66] In his arguments, the Minister relies heavily on bank statements to demonstrate that, during the disputed period, there are few transactions in Canada, and a very large number of transactions abroad, either in Thailand, Mexico, or Macao.[46]

[67] The Applicant argued that his bank account transactions don't say anything about his movements, as his wife used his bank card to support herself.[47] Then, at the hearing, the Applicant argued that I could not rely on the account statements because the Minister had obtained them illegally and without his consent.

[68] As an aside, I note that this argument can be applied to other evidence as well. For example, how can I conclude that the Applicant was in Canada when phone calls were made from his home when I don't know for sure who made those calls?[48]

[69] In terms of whether the Minister had obtained the account statements legally, the Minister acknowledged that the Applicant had not authorized the bank to disclose these

[45] See GD4-39 to GD4-42.
[46] CIBC account statements are included at GD2-60 to GD2-225.
[47] See paragraph 27 at RA1-8, for example.
[48] See the Bell invoices at RA1-19 to RA1-23.

documents. Instead, the Minister relied on the broad investigative powers that the law confers upon it.[49]

[70] Even if I disregard the account statements the Minister obtained, other factors cast doubt on the Applicant's residence in Canada during the disputed period. I'll summarize some of them here:

- The Applicant did not file any tax returns with the Canada Revenue Agency from 1980 to 2016.[50]

- The Applicant got married in March 2013, but his wife did not enter Canada permanently until May 2015. While waiting for a Canadian visa, the Applicant's wife lived in Mexico, where the couple spent long periods of time, where both were victims of assault, and where the Applicant received medical treatment for various problems.[51]

- From September 2008 to May 2014, the Applicant used a Canada Post address instead of a residential address to receive mail from Service Canada.[52]

- According to a Quebec Superior Court ruling, the Applicant failed to appear in court on April 5, 2013, because he had been absent from Canada during the winter, and his stay was extended due to consular challenges.[53] In addition, a Mexican licence was part of the Applicant's defence against this accusation.[54]

[49] See section 44.2(6)(a) of the *Old Age Security Act*.
[50] See GD2-333.
[51] See paragraph 31 at RA1-8, as well as GD2-379, GD2-381, and ADN8-1 to ADN8-3.
[52] See GD2-34 to GD2-250.
[53] See paragraphs 3, 17, and 42 of the ruling beginning at GD2-253.
[54] See paragraphs 8 and 13 at GD2-254.

– **I place significant weight on the factor related to time spent in Canada compared to time spent in other countries**

[71] It is clear from the above that the Applicant had ties in Canada and other countries. For example, he had assets and social ties in Canada, but his wife lived abroad.

[72] In this situation—and given the lack of probative evidence relating to the factors in *Ding*—I place significant weight on the factor related to time spent in Canada compared to time spent in other countries. The courts have also acknowledged the significance of this factor in other cases.[55]

[73] First, it should be noted that a person can leave Canada from time to time without it affecting their residency in Canada and without losing eligibility for the Guaranteed Income Supplement.[56]

[74] However, the fact that a person is on Canadian soil from time to time is not sufficient to establish Canadian residency. When a person has ties in several countries and regularly spends more time outside the country than inside, it's all the more difficult to show that their absences are temporary or that they "ordinarily live" in Canada.

[75] I acknowledge that the Applicant was in Canada at certain times during the disputed period. For example, he appeared before the Quebec Superior Court in June 2013 and made a payment to Citizenship and Immigration Canada in April 2014.[57] However, his refusal to co-operate with the investigator and to testify at the hearing means that the Applicant has submitted almost no reliable information about his movements during the disputed period.

[76] The Applicant had numerous opportunities to provide additional evidence to support his case. He insisted on an in-person hearing in the city where he lives so that

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[55] See the Federal Court decision in *Singer v Canada (Attorney General)*, 2010 FC 607 at paragraph 37, confirmed by the Federal Court of Appeal in *Singer v Canada (Attorney General)*, 2011 FCA 178.
[56] See section 21(4) of the *Old Age Security Regulations*, for example.
[57] See Court decision beginning at GD2-253 and the receipt at RA1-25.

he could add to the evidence already on file. But when the time came, he refused to testify or call witnesses.

[77] In short, it is impossible to link a few isolated pieces of evidence into a coherent story establishing where the Applicant ordinarily lived during the disputed period.

[78] Consequently, the Applicant has not discharged his burden: He has not demonstrated, on a balance of probabilities, that he resided in Canada from December 6, 2012, to March 1, 2015.

– The Tribunal cannot rewrite or circumvent the law

[79] During the proceedings, the Applicant pleaded for compassion. He spoke of the many difficult situations he has faced over the years.

[80] I sympathize with the Applicant. I understand that the amount he's being asked to pay will be difficult to repay and could even be detrimental to his health.

[81] However, in arriving at my decision, I cannot take into account factors such as sympathy, suffering and financial need. Instead, I am required to interpret and apply the provisions as set out in the *Old Age Security Act*. I cannot invoke principles of fairness or consider extenuating circumstances to rewrite or circumvent the law or to grant Guaranteed Income Supplement benefits.

[82] In this difficult situation, the Applicant could ask the Minister to remit (write off) the debt, in whole or in part, or to establish a reasonable repayment plan.[58]

Conclusion

[83] I dismiss the Applicant's appeal.

[84] It's the Minister's responsibility to calculate the amount the applicant must repay.[59] The applicant complained that the Minister has already deducted amounts from

[58] See section 37(4)(a) of the *Old Age Security Act*.
[59] The Minister has informed the Tribunal that as of October 4, 2024, this amount is $10,281.27.

his Old Age Security pension illegally and without authorization. Unfortunately, I have no jurisdiction over this matter or over his complaints about the services Service Canada provided.[60]

Jude Samson
Member, Appeal Division

[60] See, for example, *Mudie v Canada (Attorney General)*, 2021 FCA 239 at paragraphs 22 to 24 and *ML v Canada Employment Insurance Commission*, 2022 SST 784 at paragraph 49.