



Citation: *VP v Minister of Employment and Social Development*, 2025 SST 271

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: V. P.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated October 21, 2024
(GP-24-977)

Tribunal member: Kate Sellar

Decision date: **March 21, 2025**

File number: AD-25-41

Decision

[1] I'm refusing to give the Claimant (V. P.) leave (permission) to appeal. The appeal will not proceed. These are the reasons for my decision.

Overview

[2] The Claimant turned 65 on December 4, 2023. She applied for an Old Age Security (OAS) pension on July 7, 2023. She said she wanted her pension to start as soon as she qualified.

[3] The Minister refused the Claimant's application. The Claimant appealed the Minister's decision to this Tribunal.

[4] The General Division dismissed the Claimant's appeal. The General Division found that the Claimant didn't meet the minimum residence requirements to qualify for a partial OAS pension.

Issues

[5] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error of fact by finding that the Claimant didn't have the required 20 years of residency she needed to be eligible for an OAS pension?
- b) Does the application set out evidence that wasn't presented to the General Division?

I'm not giving the Claimant permission to appeal

[6] I can give the Claimant permission to appeal if the application raises an arguable case that the General Division:

- didn't follow a fair process;
- acted beyond its powers or refused to exercise those powers;
- made an error of law;
- made an error of fact; or
- made an error applying the law to the facts.¹

[7] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.²

[8] Since the Claimant hasn't raised an arguable case and hasn't set out new evidence, I must refuse permission to appeal.

There's no arguable case that the General Division made an error of fact about the number of years the Claimant was a resident in Canada.

[9] The Claimant argues that the General Division made an important error of fact about the number of years she was resident in Canada. The Claimant says that she was resident in Canada from 1974 until June 1994, and therefore she had 20 years of residency in Canada.³

– The General Division's findings about the Claimant's residency

[10] The General Division explained that to receive a partial OAS pension the Claimant had to prove that she resided in Canada for at least 10 years after she turned 18. But if she didn't reside in Canada the day before the application might have been approved, she has to prove she has at least 20 years of residence.⁴

[11] The General Division found that the Claimant was resident in Canada from October 19, 1974 until June, 1994. The General Division explained that the Claimant

¹ See section 58.1(a) and (b) in the *Department of Employment and Social Development Act* (Act).

² See section 58.19(c) of the *Act*.

³ See AD1B-1.

⁴ See paragraph 15 in the General Division decision, explaining section 3(2) of the *Old Age Security Act* (OAS Act).

wasn't a resident of Canada on the day her application might have been approved because she no longer resided in Canada after June 1994.

[12] So, the Claimant needed 20 years of residency in Canada to be eligible for a partial OAS pension. October 1975 to June 1994 is not a full 20 years of residence in Canada, and so she isn't eligible for the disability pension.⁵

– **No arguable case for an error of fact by the General Division.**

[13] The Claimant hasn't raised an arguable case for an error of fact.

[14] As the General Division explained, the Claimant had to show 20 **full** years of residence in Canada in order to be eligible for the OAS pension.⁶

[15] She was resident in Canada for over 19 years, but less than a full 20 years. There's no arguable case that the General Division made an error of fact about the length of the Claimant's residency in Canada.

The Claimant hasn't provided new evidence

[16] The Claimant hasn't provided any evidence that wasn't already presented to the General Division. So new evidence also cannot form the basis for giving the Claimant permission to appeal.

[17] I've reviewed the record.⁷ I'm satisfied that there's no arguable case that the General Division ignored or misunderstood any important evidence.

⁵ See paragraphs 35 and 36 in the General Division decision.

⁶ See paragraphs 35 and 36 in the General Division decision. See also section 37(1) in the *Interpretation Act*, for the definition of "year" which is a period of twelve consecutive months

⁷ For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

Conclusion

[18] I've refused to give the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division