



Citation: *IS v Minister of Employment and Social Development and NS*, 2025 SST 235

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: I. S.

Respondent: Minister of Employment and Social Development
Representative:

Added Party: N. S.
Representative:

Decision under appeal: General Division decision dated March 3, 2025
(GP-25-207)

Tribunal member: Kate Sellar

Decision date: **March 20, 2025**

File number: AD-25-162

Decision

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

Overview

[2] The Applicant and the Added Party (his spouse) applied for the Guaranteed Income Supplement benefit on February 6, 2023. The Minister of Employment and Social Development (Minister) accepted their application.

[3] The Applicant and the Added Party didn't agree with the Minister's calculation of their benefits for the years 2022 to 2023 and 2023 to 2024. They asked it to reconsider. On January 10, 2024, the Minister reconsidered its decision and recalculated the benefits.

[4] The Applicant appealed to this Tribunal. The General Division explained that the appeal wouldn't go ahead because the Applicant filed it more than a year after the Minister communicated the reconsideration decision.

Issues

[5] The issues in this appeal are:

- a) Has the Applicant raised an arguable case for any error by the General Division that would justify giving him permission to appeal?
- b) Does the application set out evidence that wasn't presented to the General Division?

I'm not giving the Applicant permission to appeal

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

[8] Since the Applicant 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 that would justify giving the Applicant permission to appeal

[9] As I understand it, the Applicant argues that the General Division made an error of fact by assuming incorrectly that he was appealing the reconsideration decision from the Minister dated January 10, 2024.³ In fact, the Applicant was pleased with that reconsideration decision: it recalculated his benefits for the years 2022 to 2023 and 2023 to 2024. Instead, the Applicant says he was appealing because he didn't yet have a reconsideration decision from the Minister about his 2024-2025 benefit calculation. He says that the General Division should have exercised its authority to decide about the 2024 to 2025 benefit calculation.

[10] The Claimant has many reasons why he thinks the General Division should have dealt with the 2024 to 2025 calculation. He wants to compel the Minister to make its reconsideration decision on this issue and argues that not deciding is itself a decision.

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

² See section 58.1(c) in the Act.

³ For the Claimant's arguments, see AD1-3 to 5.

[11] He also alleges that the Minister is:

- delaying issuing the reconsideration letter in a deliberate manner that amounts to bad faith.
- making unreasonable and unjustified requests of him for information.
- failing to provide him with a fair process.

– **The General Division explained that it didn't have the authority to address the 2024 to 2025 benefit calculation.**

[12] The General Division explained that it can't hear an appeal about the 2024 to 2025 benefit calculation because there's no reconsideration letter yet from the Minister on that issue.⁴

[13] The General Division explained that claimants can't appeal to the Tribunal until there is a reconsideration letter on the issue they wish to appeal. Accordingly, the General Division made no decision about the 2024 to 2025 benefit calculation.

– **The Applicant hasn't raised an arguable case for any error by the General Division.**

[14] I cannot find an arguable case for any error by the General Division. As the decision states, the General Division gets its authority to proceed with appeals of reconsideration decisions.⁵

[15] The Applicant doesn't have a reconsideration decision yet from the Minister on the issue he wants to raise.⁶

⁴ See paragraphs 7 to 12 for the General Division's decision about the 2024 to 2025 benefit year.

⁵ In OAS/GIS Appeals, that authority is described in section 27.1 and 28(1) of the *Old Age Security Act* (OAS Act), in CPP appeals, it's described in section 82 of the *Canada Pension Plan* (CPP).

⁶ The letter at GD1-59 about that payment year requests that the Added Party complete a Statement of Estimate Income.

[16] There's no arguable case that the General Division got its authority wrong here. The General Division cannot be faulted (in law, in fact, or in mixed fact and law) for refusing to decide an issue it has no authority to decide.

[17] The Applicant's various allegations about the Minister's failure to provide a reconsideration letter cannot form the basis for an appeal, either.

[18] I have to decide whether there's an arguable case or evidence that wasn't before the General Division that would justify giving the Applicant permission to appeal the General Division decision.⁷ Any possible errors the Minister might have made in the course of its dealings with the Applicant about the 2024 to 2025 benefit calculation prior to issuing a reconsideration decision are not within my authority to address.

The Claimant hasn't provided any new evidence that would justify giving him permission to appeal.

[19] The Claimant provided a page from a tax filing in support of his appeal.⁸

[20] This document doesn't relate to any issue the Appeal Division has the authority to decide, given that the Tribunal addresses issues arising from reconsideration decisions. Accordingly, this document cannot form the basis for giving the Claimant permission to appeal.

[21] I've reviewed the record.⁹ I'm satisfied that there's no arguable case that the General Division ignored or misunderstood any important evidence. If the Claimant wishes to raise an issue at this Tribunal, he will need a reconsideration letter from the Minister. If he doesn't have a reconsideration letter and he wishes to compel the Minister to provide one without further delay, that is not an issue this Tribunal has the authority to address.

⁷ See section 58.1 of the Act.

⁸ AD1B-2.

⁹ For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

Conclusion

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

Kate Sellar
Member, Appeal Division