



Citation: *HS v Minister of Employment and Social Development*, 2025 SST 651

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: H. S.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated February 14, 2025
(GP-24-160)

Tribunal member: Kate Sellar

Decision date: **June 20, 2025**

File number: AD-25-347

Decision

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

Overview

[2] The Claimant applied for an Old Age Security (OAS) pension and the Guaranteed Income Supplement (GIS) on July 9, 2019. The Minister of Employment and Social Development (Minister) approved her application for an OAS partial pension. On June 14, 2022, the Claimant requested a reconsideration regarding the GIS. She asked for the GIS retroactive to 2019.

[3] On October 23, 2023, the Minister maintained its decision to refuse the Claimant the GIS for the periods of July 2020 to July 2021, and July 2021 to June 2022. The Claimant appealed to this Tribunal.

[4] The General Division allowed the Claimant's appeal in part.

[5] The General Division decided that the Claimant wasn't entitled to the GIS from July 2020 to June 2021, but she was entitled to the GIS from July 2021 to June 2022.

Issues

[6] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error about the Claimant's entitlement to the GIS from July 2020 to June 2021 that could justify giving the Claimant permission to appeal?
- b) Does the application set out evidence that wasn't presented to the General Division?

I'm not giving the Claimant permission to appeal

[7] 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

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

[9] 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 for an error by the General Division about the Claimant's GIS from July 2020 to June 2021.

[10] The Claimant says she's had trouble understanding why the General Division decided she isn't entitled to the GIS payment for July 2020 to June 2021. She argues that the General Division decision was wrong because her obsessive-compulsive disorder (OCD) and the pandemic made it difficult for her to complete her 2019 taxes any sooner than she did.³

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 See AD1.

- **The General Division described the law that applies to the Claimant and examined the evidence the Claimant provided.**

[11] The General Division found that the Claimant wasn't eligible for the GIS from July 2020 to June 2021 because:

- The OAS Act doesn't allow the Minister to pay any claimant the GIS earlier than 11 months before the month they receive the application.⁴
- The Minister hasn't received the application until it has the income information for the year before the period the Claimant wants payment.
- That means that for the Minister to pay the GIS to the Claimant for July 2020 to June 2021, the Claimant would need to file her 2019 income information by June 2021 (11 months after the period she wanted payment to start).
- The Claimant applied for the OAS pension and checked the box that she also wanted the GIS on July 4, 2019. But she wasn't able to complete the GIS application itself, until she got help from a tax firm and filed her taxes for the years 2019, 2020, and 2021 all together sometime after October 2023.
- So, by the time the Minister had the Claimant's GIS application information for the period July 2020 to June 2021, the Minister couldn't pay her because it was way more than 11 months later, in fact, it was after October 2023.
- The only exception that would allow the Claimant to receive the GIS even though she completed the GIS application with her 2019 tax information so late was if she could prove she was incapable of forming or expressing the intention to apply earlier.
- While the General Division recognized that the Claimant had OCD, and that there were other challenges in applying earlier like the pandemic and the death of her sister, the Claimant wasn't able to show she was incapable. She had a

⁴ See section 11(7) in the OAS Act.

Declaration of Incapacity, but her ability to make other decisions and other applications showed the General Division that she wasn't incapacitated.

– **There's no arguable case for an error by the General Division in this appeal.**

[12] The Claimant hasn't provided any arguable case for an error by the General Division. She doesn't dispute when she completed her income information for 2019, or what the law says about paying claimants the GIS when the application is completed late. The Claimant hasn't raised any arguable error by the General Division in its analysis or fact finding about whether she was incapable of applying for the GIS sooner.

[13] The Claimant hasn't raised any argument about the General Division failing to provide her with a fair process, either.

[14] I understand why it was hard for the Claimant to apply based on her OCD and the pandemic, but I see no possible error about how the General Division applied the law about GIS applications and payment to her situation.

There's no new evidence.

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

[16] I've reviewed the written record.⁵ I'm satisfied that the General Division didn't overlook or misunderstand any important evidence that could change the outcome for the Claimant.

Final Note

[17] The Claimant also provided the Appeal Division with a letter she got from the Minister dated February 25, 2025. The Claimant is confused about the letter.⁶

⁵ For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

⁶ See AD1B.

[18] It seems that the letter simply confirms that the Claimant will receive the GIS for July 2021 to June 2022 consistent with what the Minister agreed to and what the General Division decided in its appeal.

[19] The letter explains that this is because the Claimant provided the tax information she had (also called “income information”) for 2020 in June 2022, so that statement was provided in time for her to be paid back 11 months to a one-year period starting June 2021 to June 2022.

Conclusion

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

Kate Sellar
Member, Appeal Division