



Citation: *YC v Minister of Employment and Social Development*, 2025 SST 724

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: Y. C.

Representative: G. T.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated August 13, 2024 (issued
by Service Canada)

Tribunal member: Virginia Saunders

Type of hearing: In person

Hearing date: June 25, 2025

Hearing participants: Appellant
Appellant's representative
Appellant's witness

Decision date: July 14, 2025

File number: GP-25-80

Decision

[1] The appeal is allowed.

[2] The Appellant, Y. C., is eligible for a partial Old Age Security (OAS) pension of 10/40. Payments start as of April 2023.

[3] This decision explains why I am allowing the appeal.

Overview

[4] The Appellant was born in China on May X, 1952. She first came to Canada in July 2012. Since then, she has spent most of her time in this country. She applied for an OAS pension on October 4, 2022. She said she wanted her pension to start in April 2023.¹

[5] The Minister of Employment and Social Development (Minister) refused the Appellant's application. The Minister said the Appellant didn't start residing in Canada until November 2016, so she didn't have enough years of residence to qualify for the pension.²

[6] The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

[7] The Appellant says she has resided in Canada since she first came here in July 2012. She left for short visits to renew her visitor's visa, but she made her home and ordinarily lived in Canada.

[8] The Minister says that, before November 22, 2016, the Appellant was present in Canada but did not reside here. She had stronger residential ties to China, she did not

¹ See GD2-3 to 12.

² The Minister manages the Old Age Security programs for the Government of Canada through Service Canada. See the reconsideration decision at GD2-107 to 108.

“establish a centralized mode of living” in Canada, and did not “maintain a principal and centralized mode of living in Canada while absent.”³

What the Appellant must prove

[9] To receive a **full** OAS pension, the Appellant has to prove she resided in Canada for at least 40 years after she turned 18.⁴ This rule has some exceptions. But the exceptions don’t apply to the Appellant.⁵

[10] If the Appellant doesn’t qualify for a full OAS pension, she might qualify for a **partial** pension. A partial pension is based on the number of years (out of 40) that a person resided in Canada after they turned 18. For example, a person with 12 years of residence receives a partial pension of 12/40 the full amount.

[11] To receive a partial OAS pension, the Appellant has to prove she resided in Canada for at least 10 years after she turned 18. But, if the Appellant didn’t reside in Canada the day before her application was approved, she has to prove she already has 20 years of residence.⁶

[12] The Appellant has to prove she resided in Canada. She has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not she resided in Canada during the relevant periods.⁷

Reasons for my decision

[13] I find that the Appellant is eligible for a partial OAS pension of 10/40.

[14] The Appellant resided in Canada for 10 full years the day before her application could be approved. As of the hearing date, she continued to reside in Canada.

³ See GD6.

⁴ See section 3(1)(c) of the *Old Age Security Act* (OAS Act). The Appellant also has to be at least 65 years old and a Canadian citizen or legal resident of Canada. And she must have applied for the pension. The Appellant has met these requirements.

⁵ See section 3(1)(b) of the OAS Act.

⁶ See section 3(2) of the OAS Act.

⁷ See *De Carolis v Canada (Attorney General)*, 2013 FC 366.

[15] I considered the Appellant's eligibility from July 25, 2012, up to and including the hearing date.

[16] I chose the first date (July 25, 2012) because that is when the Appellant first entered Canada. In her application, the Appellant said she started residing in Canada in April 2013.⁸ She said this because when she applied that was the evidence she had about when she first arrived in Canada. Later, she discovered evidence that she had actually arrived in Canada on July 25, 2012.⁹ She asked the Minister to consider that as the date she started to reside in Canada.¹⁰

[17] I chose the second date (the hearing date) because I had relevant evidence up to that date. It was important to decide where the Appellant resided even after she qualified for the pension, because it affects when her pension becomes portable.¹¹

[18] Payments start as of April 2023.¹²

[19] Here are the reasons for my decision.

The test for residence

[20] The law says that being present in Canada isn't the same as residing in Canada. "Residence" and "presence" each have their own definition. I have to use these definitions in making my decision.

[21] A person **resides** in Canada if they make their home and ordinarily live in any part of Canada.¹³

⁸ See GD2-6

⁹ See GD2-78.

¹⁰ See GD2-104.

¹¹ If a pensioner leaves or stops residing in Canada for more than six months, their pension is suspended until the month they return or resume their residence. This doesn't apply to pensioners who have resided in Canada for at least 20 years after turning 18. Their pensions are paid regardless of where they are or where they reside. This is called a portable pension. See sections 9(1) through 9(4) of the *Old Age Security Act*.

¹² This is the earliest date payments could start. In some cases, the Minister and the Appellant may agree to have payments start later.

¹³ See section 21(1)(a) of the *Old Age Security Regulations* (OAS Regulations).

[22] A person is **present** in Canada when they are physically present in any part of Canada.¹⁴

[23] When I am deciding whether the Appellant resided in Canada, I have to look at the overall picture and factors such as:¹⁵

- where she had property, like furniture, bank accounts, and business interests
- where she had social ties, like friends, relatives, and membership in religious groups, clubs, or professional organizations
- where she had other ties, like medical coverage, rental agreements, mortgages, or loans
- where she filed income tax returns
- what ties she had to another country
- how much time she spent in Canada
- how often she was outside Canada, where she went, and how much time she spent there
- what her lifestyle was like in Canada
- what her intentions were

[24] This isn't a complete list. Other factors may be important to consider. I have to look at **all** the Appellant's circumstances.¹⁶

The Appellant has resided in Canada since July 25, 2012

[25] The Appellant resided in Canada from July 25, 2012, to July 24, 2022. She qualified for an OAS pension at that date. She continues to reside in Canada.

¹⁴ See section 21(1)(b) of the OAS Regulations.

¹⁵ See *Canada (Minister of Human Resources Development) v Ding*, 2005 FC 76. See also *Valdivia De Bustamante v Canada (Attorney General)*, 2008 FC 1111; *Duncan v Canada (Attorney General)*, 2013 FC 319; and *De Carolis v Canada (Attorney General)*, 2013 FC 366.

¹⁶ See *Canada (Minister of Human Resources Development) v Chhabu*, 2005 FC 1277.

[26] The Minister decided the Appellant started to reside in Canada on November 22, 2016, and continued to reside in Canada up to the date of its initial decision, July 28, 2023.¹⁷ So that period isn't in dispute. I see no reason to make a different finding.

[27] The remaining periods are July 25, 2012, to November 21, 2016, and July 28, 2023, to June 25, 2025. I will explain why I decided the Appellant also resided in Canada during these periods.

– **I believed what the Appellant and the witnesses told me**

[28] The Appellant gave evidence at the hearing, as did her daughter, H., and her son-in-law, G. T. All three answered my questions in a natural, credible way. I believe what they told me.

[29] H. and G. T. did most of the talking, but that didn't concern me. They did most of the paperwork related to the Appellant's immigration and her OAS pension application. They have direct knowledge of the Appellant's living situation and her personal affairs.

[30] G. T. is also the Appellant's representative for this appeal. This didn't conflict with his acting as a witness, because he is not a professional representative and his role was more administrative.

– **The Appellant's strongest ties are to Canada**

[31] The Appellant has had strong ties to Canada since she first arrived in July 2012.

[32] The Appellant came to Canada to be with H., who has lived in Canada since 2002. H. had a son in February 2009. Her marriage broke up soon after that. She found life as a single parent was difficult. She asked her mother to move to Canada to be with her. The Appellant was divorced and H. was her only child, so she agreed.¹⁸

¹⁷ See GD6-8 and GD6-14.

¹⁸ H. and the Appellant said this at the hearing.

[33] H. went to an immigration consultant for help. They told her that the fastest way to get the Appellant to Canada would be for her to come on a visitor's visa.¹⁹

[34] The Appellant got a six-month visa in May 2012. This was the longest period she was allowed. She came to Canada on July 25, 2012.²⁰ She moved into H.'s apartment in the Vancouver area. She lived there with H. and H.'s son. H.'s ex-husband was sometimes there as well, for financial reasons only.²¹

[35] H. registered her son in daycare at her workplace, but there was only space for him to be there a few hours a week. The Appellant looked after him the rest of the time. In addition to looking after her grandson, she cooked and cleaned.²²

[36] H. met G. T. in 2013. Her ex-husband stopped staying at the apartment and G. T. moved in. With G. T.'s help, the Appellant renewed her visa several times and eventually became a permanent resident in August 2018.

[37] In 2015, the Appellant, H., G. T., and H.'s son moved to a house in Surrey, BC, where they still live. The Appellant has her own bedroom in the house. G. T.'s mother also lives in the home, in a separate suite.²³

[38] Except for moving to a house, the Appellant's life hasn't changed much since 2012. She still does the cooking, cleaning, and childcare. Her grandson goes to school nearby, and she drops him off and picks him up every day. She has Canadian bank accounts, which she opened in 2012 and 2013.²⁴ She uses these for personal spending, but she doesn't have many expenses because H. and G. T. pay all her expenses, as they do for G. T.'s mother. She doesn't belong to any clubs and she is not very social. She told me this was because her English isn't very good.

¹⁹ H. said this at the hearing.

²⁰ See GD2-78.

²¹ H. said this at the hearing.

²² H. and the Appellant said this at the hearing.

²³ G. T. said this at the hearing.

²⁴ See GD5-3.

– **The Appellant has spent most of the time since 2012 in Canada**

[39] It's significant that since July 2012 the Appellant has spent far more time in Canada than she has in China, or anywhere else. She went back to China each time her visa was renewed. She has also gone back to visit friends and family there.

[40] I accept the Appellant's evidence that, except for day trips to go shopping in the United States, she was in China whenever she was not in Canada. She provided copies of her Canadian visas and a certified copy of her Chinese passport. Her visas show that she was in Canada legally.²⁵ Her passport shows that, between July 2012 and November 2016, she was in Canada and China as follows:²⁶

- in Canada from July 25, 2012, to January 23, 2013 (6 months)
- in China from January 23, 2013, to April 24, 2013 (3 months)
- in Canada from April 24, 2013, to April 13, 2014 (11.5 months)
- in China from April 13, 2014, to April 29, 2014 (16 days)
- in Canada from April 29, 2014, to October 13, 2015 (17.5 months)
- in China from October 13, 2015, to October 29, 2015 (16 days)
- in Canada from October 29, 2015, to September 23, 2016 (11 months)
- in China from September 23, 2016, to November 22, 2016 (2 months)

[41] There are 52 months between July 2012 and November 2016. The Appellant was in Canada for 46 of them. For all of those months, she lived with her close family members in their home. She was a caregiver and a homemaker. It was her home too.

– **The Appellant's ties to China aren't as strong**

[42] I don't agree with the Minister's argument that the Appellant has stronger ties to China.

²⁵ See GD2-78 to 85.

²⁶ See GD2-43, 46 and 47.

[43] The Appellant has a brother and sister in China, she owns an apartment there, and she has a bank account. These aren't necessarily evidence of strong residential ties.

[44] First, the Appellant has stronger family ties to Canada. Her daughter and grandson are in Canada, while her Chinese family members are her adult siblings.

[45] Second, the Appellant has a good reason for owning the apartment.²⁷ The Chinese government gave it to her for housing because she was a public servant. Then she got to keep it. It's a good investment, and it gives the Appellant and her family somewhere to stay when they go to China. As I noted above, the Appellant hardly spent any time in China between July 2012 and November 2016. She hasn't gone back much since then, either.²⁸ Her daughter and son-in-law use the apartment three or four times a year. Her infrequent use of the apartment means it is not a residential tie to China.

[46] Third, the Appellant has a bank account in China because her Chinese government pension is deposited there. She gets the pension because she worked for the Chinese government. She has been retired for many years. The pension and the bank account do not show the Appellant has stronger ties to China.

– I placed no weight on the Appellant's initial statements about her intentions

[47] The Minister argued that the Appellant didn't reside in Canada before November 2016 because of what she initially said during the application process.

[48] In a questionnaire the Appellant said that she didn't apply to become a permanent resident right away (in July 2012) because she didn't intend to live in Canada permanently. She said that she only came to Canada to visit, and she planned to return to China. She didn't bring any personal effects to Canada. She said she only decided to live permanently in Canada in November 2016.²⁹

²⁷ G. T. and H. gave evidence about the apartment at the hearing.

²⁸ See GD1-10. The Appellant and G. T. also said this at the hearing.

²⁹ See GD2-62-63.

[49] I didn't place any weight on these initial statements. Here is why.

[50] G. T. and H. told me they helped the Appellant complete her application and the questionnaires. They believed the Appellant could not say she intended to stay in Canada for the period when she was here on a visitor visa. They also believed she could not say she intended to live here permanently until she was actually a permanent resident. This wasn't because she intended to mislead anyone about her intentions. It was because, the way they understood the law, she simply could not say she was or intended to be anything other than a visitor when that was her legal status.

[51] I accept this explanation. It makes sense, since in the same document where she made these statements, and in her application, the Appellant claimed she resided in Canada before she (initially) said she intended to reside in Canada.³⁰ One month after she made the statements, she sent a letter explaining why she said what she did, and clarifying that it was always her intention to live in Canada.³¹ The Minister didn't say why it ignored the Appellant's explanation.

[52] In any case, the Appellant's intentions are only one factor among several. As I have explained, other factors tell me that the Appellant has made her home and ordinarily lived in Canada since July 2012. The fact is, she moved to Canada in July 2012. She established a lifestyle here that should not be dismissed because she didn't own property, pay bills, or have a social life. She spent **significantly** more time here, living in the same home as her family and looking after them.

[53] I accept the Appellant's evidence that, since July 28, 2023 (the last date the Minister agreed she resided in Canada) she has visited China twice, both for periods of under two months.³² Like her previous trips I find that these were temporary visits that did not interrupt her residence in Canada.³³

³⁰ See GD2-68.

³¹ See GD2-104.

³² See GD2-10. The Appellant said at the hearing that she has not left Canada since the document was prepared in January 2025.

³³ See section 21(4)(a) of the *Old Age Security Act Regulations*.

[54] The Minister argues that the Appellant didn't establish a centralized mode of living in Canada. That isn't the test. Even if it was, the Appellant has met it. I find that, since July 25, 2012, she has made her home and ordinarily lived in Canada.

The Appellant qualified for a partial OAS pension in April 2023

[55] The Appellant began residing in Canada on July 25, 2012. She continued residing in Canada up to the hearing date. As of July 24, 2022, she had resided in Canada for 10 years after she turned 18.

[56] The Appellant is eligible for a pension of 10/40 the full amount. This is because she had resided in Canada for 10 full years when her application could be approved.³⁴

When payments start

[57] The Appellant's pension starts in April 2023.

[58] OAS pension payments start the month after the pension is approved.³⁵ The Appellant was 70 when she applied. When an application is received after a person turns 65, the approval takes effect on the **latest** of the following dates:³⁶

- one year before the day it was received—in this case, October 4, 2021
- the day the Appellant qualified for a pension after turning 65 **and** meeting the 10-year residence requirement—in this case, July 25, 2022
- the month before the day specified in writing by the Appellant—in this case, the Appellant specified April 2023, and the month before that is March 2023

[59] The latest of these dates is March 2023. That is the effective approval date. Payments start the following month, which is April 2023.

³⁴ The period of residence is rounded down to the lower multiple of a year when it isn't a multiple of a year. See section 3(4) of the OAS Act.

³⁵ See sections 8(1) and (2) of the OAS Act.

³⁶ See section 5(2) of the OAS Regulations.

[60] The Appellant likely chose to have her pension start in April 2023 because, when she filled out her application, she believed that was when she would first qualify. Because of the evidence she supplied later, she qualified in July 2022.

[61] Unfortunately, the date the Appellant specified in writing is still April 2023. I can't change that. However, the Appellant may want to contact Service Canada to change the date she wants her pension to start. If so, she should do this in writing and as soon as possible. I encourage the Minister to take this into consideration before it starts paying the Appellant's pension.

Conclusion

[62] The Appellant is eligible for a partial OAS pension of 10/40.

[63] This means the appeal is allowed.

Virginia Saunders
Member, General Division – Income Security Section