



Citation : *DS v Minister of Employment and Social Development*, 2025 SST 910

**Social Security Tribunal of Canada**  
**General Division – Income Security Section**

## **Decision**

**Appellant:** D. S.

**Respondent:** Minister of Employment and Social Development

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated January 28, 2025 (issued  
by Service Canada)

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**Tribunal member:** Wayne van der Meide

**Type of hearing:** Teleconference

**Hearing date:** August 26, 2025

**Hearing participant:** Appellant

**Decision date:** August 29, 2025

**File number:** GP-25-428

## Decision

[1] The appeal is allowed.

[2] The Appellant, D. S., is eligible to cancel his Old Age Security (OAS) pension.

## Overview

[3] An OAS pension cannot be paid to a person unless they are qualified, and an application has been made and approved.<sup>1</sup> But the Minister of Employment and Social Development (Minister) can waive the requirement for an application if they are satisfied that the person is qualified.<sup>2</sup> This is called automatic enrollment.

[4] If the Minister intends to waive the requirement for an application, it must notify the person in writing of its intention to waive and give them the information it intends to rely on to approve payment of the pension.<sup>3</sup>

[5] A person may opt out of automatic enrollment.<sup>4</sup> A person might do this so they can get a higher amount later.<sup>5</sup> They get another chance to opt out once payment starts, because they have another six months to cancel their pension.<sup>6</sup>

[6] The Appellant turned 65 in May 2018. He didn't apply for an OAS pension.

[7] The Minister automatically enrolled the Appellant to start receiving the OAS pension in June 2018, which is the month after he turned 65.<sup>7</sup>

[8] Service Canada administers the OAS pension program for the Minister. In April 2023 the Appellant called Service Canada.<sup>8</sup> He wanted to know if his OAS pension

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<sup>1</sup> See section 5(1) of the *Old Age Security Act*.

<sup>2</sup> See section 5(4) of the *Old Age Security Act*.

<sup>3</sup> See section 5(5) of the *Old Age Security Act*.

<sup>4</sup> See section 5(7) of the *Old Age Security Act*.

<sup>5</sup> Section 7.1 of the *Old Age Security Act* allows a person to defer receiving their OAS pension up to age 70; for each month they defer after they turn 65, they get an additional 0.6%.

<sup>6</sup> See section 9.3 of the *Old Age Security Act* and section 26.1 of the *Old Age Security Regulations*.

<sup>7</sup> See GD2-3.

<sup>8</sup> See GD2-20.

would start when he turned 70. The agent told him that he had been automatically enrolled to receive the OAS pension since June 2018.

[9] The Appellant asked the Minister to reconsider (cancel) its decision to automatically enroll him. The Minister refused to reconsider its decision, saying that the Appellant's request was late. I decided the Appellant's request to reconsider was not late.<sup>9</sup> The Minister then reconsidered and maintained its decision not to cancel his OAS pension. The Appellant appealed the Minister's reconsideration decision to the Social Security Tribunal, General Division.

[10] The Minister says it sent the Appellant two letters notifying him it intended to automatically enroll him to receive the OAS pension the month after he turned 65. The Minister also says that tax slips were sent to the Appellant showing that he was receiving an OAS pension.

[11] The Appellant says he never received notification that the Minister intended to automatically enroll him. He says the Minister should cancel (reverse) its automatic enrollment decision. He asked me to order several other remedies which I will talk about more later.

## **What I have to decide**

[12] I have to decide whether the Appellant can cancel his OAS pension.

## **Reasons for my decision**

[13] I find that the Appellant can cancel his pension. He didn't get notice that the Minister intended to waive the requirement for an OAS application or notice of the information upon which the Minister relied to approve his pension. As a result, the Minister didn't have the legal authority to pay him an OAS pension starting the month after he turned 65.

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<sup>9</sup> See *DS v Minister (Employment and Social Development)*, 2024 SST 1437.

## What the law says about automatic enrollment

[14] In order to automatically enroll a person to receive an OAS pension the law says that the Minister must notify the person in writing of its intention to waive the application to apply and give them the information it intends to rely on to approve payment of the pension.<sup>10</sup>

## The Appellant wasn't notified

### – The Appellant didn't receive the notification letter

[15] The Minister says it sent the Appellant a letter, dated May 18, 2017, notifying him of its intention to automatically enroll him to receive OAS pension payments starting the month after he turned 65.<sup>11</sup> The letter was mailed to the Appellant's address.

[16] The Minister also says that "the proper procedures and rules were carried out in this case."<sup>12</sup> The Minister may have followed proper procedures. That doesn't mean that the Appellant was notified. A person has to **receive** information in order to be notified.

[17] The Appellant says he didn't receive the notification letter. I believe him.

[18] The Appellant was credible at the hearing. He didn't embellish his story. His testimony was consistent with what he has said since he first wrote to the Minister about this issue in a letter dated April 18, 2023.<sup>13</sup> He also admitted things that could have been unfavourable for him. For example, he said he did not dispute that the Minister **sent** him the notification letter.

[19] The Appellant said that he was "fastidious" about government mail. He told me that he is detail-oriented, which is reflected by the fact that he wrote to the Minister about this issue in a letter dated April 18, 2023. That was only 15 days after he was told he had been automatically enrolled.

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<sup>10</sup> See section 5(5) of the *Old Age Security Act*.

<sup>11</sup> See GD2-21 to GD2-24.

<sup>12</sup> See GD6-14.

<sup>13</sup> See GD2-25 and GD2-26.

[20] He said as a former senior public servant in finance, he knew that it wasn't financially advantageous for him to start to be paid OAS while he was still working and that he always intended to work until he was at least 70, if not older. He said if he got a letter notifying him he was being enrolled at 65 he would have dealt with it.

[21] I asked the Appellant if it was possible that he didn't open the letter. He said it was not. I asked him if it was possible that his wife opened the letter. He said he and his wife put all the letters they get on a table, and they don't open each other's mail. He said that he has a filing system and if he got the notification letter he would have filed it.

[22] The Appellant said that three or four times a month he gets letters that are either for another house on his street or have his house number but for another street.

[23] The Appellant admitted that he received tax slips showing that he received OAS pension payments. He said that he uses a tax preparation service and he and his wife get 15 to 20 tax slips a year. When they see it is a tax slip, they don't review it in detail and put it in a box to take to their tax preparer. I believe him. And it tells me that he has a system for dealing with mail that makes it unlikely he would have ignored a notification letter.

[24] The Appellant called Service Canada in April 2023 to ask if his OAS pension would start when he turned 70.<sup>14</sup> It simply doesn't make sense to me that he would do that if he knew that he was already receiving the pension.

[25] I find that the Appellant didn't know that he was receiving an OAS pension because he never received the notification letter. If he had, he would have opened it, read it, understood its implications and taken steps to tell the Minister he didn't want to be automatically enrolled.

[26] The Minister says that the notification letter was sent to the correct address and wasn't returned as undelivered. That doesn't mean the Appellant received the letter. Letters go missing and can be delivered to the wrong address even if correctly

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<sup>14</sup> See GD2-20.

addressed. People who receive letters that aren't addressed to them don't always return them.

– **The enrollment decision letter is not proper notice**

[27] The Minister says it sent the Appellant a letter the month following his 65th birthday telling him it had **decided** to automatically enroll him to receive an OAS pension. The Minister couldn't locate a copy of the letter but provided an example it.<sup>15</sup>

[28] The Appellant says the letter wasn't sent and he didn't receive it. Even if that letter was sent and received by the Appellant, I find that the decision letter didn't satisfy the Minister's obligation to notify a person of the Minister's intention to waive the requirement to apply and provide them with the information upon which the Minister relies.

[29] The Minister is required to notify a person of its intention to waive the requirement to apply.<sup>16</sup> The Minister's decision letter does not say anything about the Minister's intention to waive the requirement to apply.

[30] The Minister is also required to provide a person with the information on which it intends to rely to approve the payment of the pension.<sup>17</sup> Based on the notification letter that was sent to the Appellant, the information upon which the Minister relied was:<sup>18</sup>

- the Appellant's year and month of birth
- a statement that he was a Canadian citizen or a legal resident of Canada
- a statement that he had lived in Canada for at least 40 years since age 18

[31] The template for the decision letter which the Minister provided does not include any of that information.<sup>19</sup>

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<sup>15</sup> See GD4-107 and GD4-110.

<sup>16</sup> See section 5(5) of the *Old Age Security Act*.

<sup>17</sup> See section 5(5) of the *Old Age Security Act*.

<sup>18</sup> See GD2-20 to GD2-24.

<sup>19</sup> See GD4-107 and GD4-108.

– **T4As are not proper notice**

[32] For the same reasons, I find the T4As that were sent to the Appellant don't satisfy the notice requirement.<sup>20</sup> They did not say the Minister intended to waive the application requirement, nor did they provide the information upon which the Minister relied.

[33] They also don't satisfy the notice requirement because they were sent **after** the Appellant turned 65 in May 2018. The Minister must waive the application requirement "on the day on which a person turns 65 years of age."<sup>21</sup> The notice requirement refers to the waiver as something that will happen in the future.<sup>22</sup> This means the notice can't be given after a waiver. It must be given before. So even if the wording of the T4As was sufficient notice, it was too late for the Minister to waive the application requirement.

## **The Appellant's other arguments**

– **The Minister did comply with my decision in GP-24-1362**

[34] The Appellant says the Minister hasn't complied with my decision in a previous appeal. That appeal was an appeal of the Minister's decision refusing to consider his request for reconsideration because it was late.

[35] In that appeal I decided that the Appellant's request for reconsideration was not late because he didn't receive the Minister's **decision** letter telling him he would be automatically enrolled to receive an OAS pension and advising him of his reconsideration rights.<sup>23</sup> In this appeal it doesn't matter whether the Appellant got that decision letter. This appeal is about whether the Minister **notified** the Appellant of its intention to automatically enroll him.

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<sup>20</sup> See GD4-42 to GD4-43.

<sup>21</sup> See section 5(4) of the *Old Age Security Act*.

<sup>22</sup> Section 5(5) of the *Old Age Security Act* says "if the Minister **intends** to waive the requirement for an application in respect of a person, the Minister shall notify the person in writing of that intention and provide them with the information on which the Minister **intends** to rely..."

<sup>23</sup> See *DS v Minister (Employment and Social Development)*, 2024 SST 1437.

[36] And as I explained to the Appellant, the Minister did reconsider its decision.<sup>24</sup> In other words, it complied with my order.

– **I cannot make the other orders the Appellant asks me to**

[37] The Appellant asked me to make other orders. I don't have the authority to do that.

[38] The Appellant retired in October 2024. He says that as of 2025 his income is low enough that the Canada Revenue Agency should no longer be clawing back his OAS payments. Yet, he says, no OAS payments have been deposited into his account. He says the Tribunal should order the Minister to:

- tell the Canada Revenue Agency to stop clawing back OAS payments as of January 2025
- deposit all missed payments in the form of a lump sum within 60 days of my decision
- continue to make payments every month
- identify a specific person to contact him within 10 days after my decision
- implement my decision within 60 days

[39] The Tribunal can only do what the law says it can. It can dismiss, allow, rescind or vary a decision of the Minister.<sup>25</sup> The decision must be a reconsideration decision made under the OAS Act.<sup>26</sup> The only reconsideration in this appeal is the one dated January 28, 2025, that said the Appellant could not cancel his OAS pension.

– **There is no application to withdraw**

[40] The law says that a person can withdraw an application for an OAS pension anytime before payment of a pension commences.<sup>27</sup> The Appellant says because his

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<sup>24</sup> See GD3.

<sup>25</sup> See section 54(1) of the *Department of Employment and Social Development Act*.

<sup>26</sup> See section 28(1) of the *Old Age Security Act*.

<sup>27</sup> See section 5.1(1) of the *Old Age Security Act*.



OAS pension payments were clawed back, payment of his pension didn't start. He says this means he should be able to withdraw his application **and** cancel his automatic enrollment.<sup>28</sup>

[41] First, I don't agree with the Appellant that payment of a pension only begins when money is deposited into a person's account. Something can be paid even if it isn't received.

[42] Second, I find that the Appellant hasn't applied for an OAS pension. The Appellant says his request for reconsideration is his application for an OAS pension.<sup>29</sup> I disagree. The law says that an application for a benefit must be made using the form required by the Minister.<sup>30</sup> The Appellant's request for reconsideration does not use the form required by the Minister to apply for an OAS pension.

## Conclusion

[43] The Minister did not notify the Appellant of its intention to waive the requirement for an OAS application, nor did it provide the information it intended to rely on. This means the Minister didn't have the legal authority to begin paying the Appellant an OAS pension the month after he turned 65. Because the pension should never have been paid, the six-month time limit had not started to run. As a result, I find that the Appellant asked to cancel the pension in time.

[44] I find that the Appellant is eligible to cancel his OAS pension.

Wayne van der Meide  
Member, General Division – Income Security Section

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<sup>28</sup> See GD-9.

<sup>29</sup> See GD2-25 and GD2-26.

<sup>30</sup> See section 35 of the *Old Age Security Act* and sections 2(1) and 3(1) of the *Old Age Security Regulations*.