



[TRANSLATION]

Citation: *LM v Minister of Employment and Social Development*, 2024 SST 1552

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: L. M.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated February 19, 2024
(issued by Service Canada)

Tribunal member: Jean Lazure

Type of hearing: Teleconference

Hearing date: October 3, 2024

Hearing participants: Appellant
Respondent's representative

Decision date: October 9, 2024

File number: GP-24-571

Decision

[1] The appeal is dismissed.

[2] I have no jurisdiction over the Minister's most important decision in the Appellant's file—the January 18, 2019, reconsideration decision. Also, the Appellant hasn't provided me with reasons to challenge the Minister's February 19, 2024, decision. This decision explains why I am dismissing the appeal.

Overview

[3] The Appellant applied for an Old Age Security (OAS) pension on January 23, 2004.¹

[4] On December 17, 2018, the Minister issued a decision and sent a letter² to the Appellant indicating that she had been in a common-law relationship since July 2011. But the Minister had paid the Appellant the Guaranteed Income Supplement (GIS) at the rate for a single person. So, the Minister told the Appellant that she had received an overpayment of \$43,389.99, which it is asking her to repay.

[5] On January 11, 2019, the Appellant asked for that decision to be reconsidered.³ On December 18, 2019, the Minister upheld its decision and sent the Appellant a reconsideration decision letter.⁴

[6] It should be noted that the Appellant never appealed that last decision to our Tribunal.

[7] Also, on February 7, 2020, the Minister issued a decision and sent a letter⁵ to the Appellant indicating that she had received GIS payments calculated on a family income

¹ This is at GD2-3.

² See GD2-247.

³ See GD2-249.

⁴ See GD2-255.

⁵ See GD4-1.

of \$13,177.00, while her family income had been \$13,295.00. So, the Minister told the Appellant that she had received an overpayment of \$14.00.

[8] On February 21, 2020, the Appellant asked for that decision to be reconsidered.⁶ On February 19, 2024, the Minister upheld its decision and sent the Appellant a reconsideration decision letter.⁷

[9] On March 21, 2024, the Appellant appealed⁸ that last decision to our Tribunal.

Reasons for my decision

[10] I must dismiss the Appellant's appeal for the following reasons.

[11] It is clear that the most important decision in the Appellant's file is the one dated December 18, 2019. In it, the Minister upheld its initial decision,⁹ asking the Appellant to repay an overpayment of \$43,389.99.

[12] It is also clear that the Appellant would have liked me to consider that decision. That decision has significant consequences because of the amount she is being asked to repay.

[13] But I explained to the Appellant at the hearing that I could not consider that decision. I don't have jurisdiction to because she never appealed the Minister's December 18, 2019, reconsideration decision.

[14] The Minister points out to me in its written arguments¹⁰ that I can't extend the time for the Appellant to appeal beyond one year.¹¹ The Minister says that the Appellant [translation] "replied by letter on January 22, 2020, so it can be concluded that, on that

⁶ See GD2-263.

⁷ See GD2-266.

⁸ See GD1-1.

⁹ Dated December 17, 2018.

¹⁰ See GD8-9.

¹¹ See section 52(2) of the *Department of Employment and Social Development Act* (DESD Act), SC 2005, c 34.

date, she had received it. The notice of appeal is dated March 28, 2024, which is beyond the prescribed year.”¹² The Minister is right.

[15] The time limit for appealing a Minister’s reconsideration decision is “90 days after the day on which the decision is communicated to the appellant.”¹³ If I consider the December 18, 2019, decision, I am extending the time limit for the Appellant to appeal by about four years. Even with all the sympathy I have for her, I can’t do that. I have to follow the law.

[16] Finally, I explained to the Appellant at the hearing that the only decision over which I had jurisdiction was the February 19, 2024, decision. But the Appellant told me that she wasn’t disputing that decision—she isn’t disputing the difference of \$118.00 in her family income, and she isn’t disputing that she received an overpayment of \$14.00.

[17] So, I have no choice but to dismiss the Appellant’s appeal.

Conclusion

[18] I find that I don’t have jurisdiction over the Minister’s January 18, 2019, reconsideration decision. Also, the Appellant hasn’t provided me with reasons to challenge the Minister’s February 19, 2024, decision.

[19] This means that the appeal is dismissed.

Jean Lazure

Member, General Division – Income Security Section

¹² See GD8-9.

¹³ Section 52(1)(b) of the DESD Act, *supra*.