Citation: *AB v Minister of Employment and Social Development*, 2025 SST 949

Social Security Tribunal of Canada
Appeal Division

Decision

Appellant:	A. B.
Respondent:	Minister of Employment and Social Development
Representative:	Viola Herbert

Decision under appeal:	General Division decision dated February 9, 2025 (GP-24-1450)

Tribunal member:	Neil Nawaz
Type of hearing:	Videoconference
Hearing date:	September 3, 2025
Hearing participants:	Appellant Respondent's representative
Decision date:	September 11, 2025
File number:	AD-25-341

Decision

[1] I am dismissing this appeal. The Appellant is not entitled to an Old Age Security (OAS) pension. She did not live in Canada long enough to receive the pension while living abroad.

Overview

[2] The Appellant is a 67-year-old occupational therapist who was born in Scotland. She moved to Canada in 1982 and lived and worked here for many years. In 2001, she left her job and moved back to the United Kingdom (UK), where she still lives.

[3] The Appellant applied for an OAS pension in February 2023.[1] In her application, she claimed that she had lived in Canada from February 1982 to April 2002. She said that she took a leave of absence from her job at X Hospital in January 2001 and returned to the UK for family reasons. She added that the Canada Revenue Agency (CRA) determined she was a "factual resident of Canada" until April 2002.

[4] Service Canada, the Minister's public-facing agency, refused the application.[2] It found that the Appellant had lived in Canada for only 18 years, falling short of the 20 years of residency required under the law to receive an OAS pension while living outside the country.

[5] The Appellant appealed Service Canada's refusal to the Social Security Tribunal. The Tribunal's General Division held a hearing by videoconference and dismissed the appeal, agreeing with the Minister that the Appellant ceased to be a resident of Canada on January 15, 2001.

[6] Appellant then applied for permission to appeal to the Appeal Division. In May, one of my colleagues on the Appeal Division granted her permission to appeal. Earlier this month, I held a hearing to discuss her claim in full.

---

[1] See the Appellant's Application for the Old Age Security Pension dated February 20, 2023, GD2-6.
[2] See Service Canada's reconsideration refusal letter dated August 15, 2023, GD2-47.

Issue

[7] The parties agreed that the Appellant resided in Canada from February 7, 1982 to January 15, 2001. That meant the only subject of this appeal was whether the Appellant was also a Canadian resident in the 13 months or so **after** January 15, 2001.

Analysis

[8] I have applied the law to the available evidence and concluded that the Appellant ceased to be a resident as of January 15, 2001, when she returned to the UK to take a contract position with X.

Residence depends on many factors

[9] To receive a full OAS pension, a claimant must prove that they resided in Canada for at least 40 years after they turned 18.[3] To receive a partial OAS pension, a claimant must prove that they resided in Canada for at least 10 years after they turned 18. If the claimant wasn't residing in Canada when their application was approved, they must prove they had 20 years of residence.[4]

[10] OAS claimants must prove they resided in Canada on a balance of probabilities. That means that they must show that, more likely than not, they resided in Canada during the period in question.[5]

[11] When I am deciding whether the Appellant resided in Canada, I have to look at the overall picture, taking into account factors such as:

- where she had property, like furniture, bank accounts, and business interests;
- where she had social ties, such as friends, relatives, and membership in religious groups, clubs, or professional organizations;

[3] See section 3(1)(c) of the OAS Act. The claimant must also have applied for the pension and be at least 65 years old and a Canadian citizen or legal resident of Canada.
[4] See section 3(2)(b) of the OAS Act.
[5] See *De Carolis v Canada (Attorney General)*, 2013 FC 366.

- where she had other ties, such as 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;
- what her lifestyle was like in Canada; and
- where she intended to live.[6]

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

The Appellant kept ties to the UK while living in Canada

[13] The Appellant moved to Canada in 1982, but she retained many ties to the UK:

- She retained British citizenship, even after she became a Canadian citizen;
- Her immediate family remained in the UK;
- She maintained a British bank account; and
- She maintained her membership in the British Association of Occupational Therapists.

[14] By themselves, none of these things harm her claim to have been a resident of Canada during the 13-month period at issue. However, considered together, they suggest that it would have been relatively easy for the Appellant establish herself in the UK if that was her intention.

---

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

[15] The evidence suggests that it was indeed her intention. On balance, the Appellant's conduct tells me that she intended to permanently resettle in the UK when she left Canada in January 2001.

The Appellant wasn't present in Canada between January 2001 and February 2002

[16] Where a person is physically located does not determine residency. One can be outside Canada but still be a resident; conversely, one can be inside Canada and not be a resident. But presence in Canada is still an important consideration, even if it is not the only one.

[17] The Appellant testified that, having left for the UK, she did not come back to Canada over the next year. After January 2001, her ties to Canada amounted to the following:

- Canadian citizenship;
- A Canadian bank account;
- Personal belongings, including furniture, in storage; and
- Membership in Canadian professional associations, including the Canadian Association of Occupational Therapists and the College of Occupational Therapists of Ontario.

[18] The Appellant continued to have friends in Canada, including her former flatmate, who would have been willing to welcome her back if she had returned to Toronto. She also had a job waiting for her at X Hospital as long as she was on leave.[7] Of course, the Appellant never returned to her friend's flat or her job, because she succeeded in establish herself professionally in the UK. But the circumstances surrounding her move suggest that these residual ties with Canada were not markers of residence so much as fail-safe options. The balance of the evidence indicates that she intended to make a

[7] See letter dated November 7, 2000 by P. C., Director, Employee Support Services, X Hospital, approving the Appellant's request for a one-year leave of absence, GD2-33.

permanent move to the UK but maintained selected ties to Canada in case her career transition didn't take.

The Appellant intended to leave Canada for good

[19] Residence is determined in part by looking at where a person **intends** to live. Intention may be deduced from the person's **words and actions**. In this case, the evidence indicates that the Appellant made careful preparations to move to the UK permanently.

– The death of her father drew the Appellant back to the UK

[20] The Appellant testified that her father passed away in January 2000, leaving her elderly mother alone in Glasgow. She briefly returned home for the funeral but came away feeling that her mother would need more support.

[21] It's clear that her father's death precipitated the Appellant's subsequent move to Scotland. And while it's easy to understand why the Appellant would want to spend more time with her mother under the circumstances, it shouldn't obscure the reality that there was now a powerful force drawing her back to the UK. The Appellant insists that her move was temporary, but her mother's increased needs were not. Once the Appellant came back to Scotland, it was always going to be emotionally difficult to leave her mother and resume her life in Toronto.

– The Appellant actively sought a job in the UK

[22] After her father's death, the Appellant began planning a move. In a questionnaire for Service Canada, the Appellant suggested that she was recruited for the X position,[8] but her testimony made it clear that she was actively looking for a job in the UK months before she left Canada. She said that, in the summer of 2000, she attended a professional conference, where a colleague told her about an upcoming X pilot project that, if successful, would lead to the establishment of an in-house occupational health

[8] See the Appellant's addendum to the Service Canada Questionnaire dated June 19, 2023, GD2-27.

department.[9] The Appellant applied for a position and, after two interviews (including one in person) and a round of psychological testing, she was hired for a one-year contract.

[23] Taking a job, even for a year, represented a significant commitment to another country. The Appellant emphasized that the job was temporary but, at the time, there was reason to believe that the pilot project would succeed and that she'd be offered another contract.

[24] As it turned out, both these possibilities became realities. The X's pilot project was deemed a success and extended indefinitely. The Appellant stayed on, but the new occupational health department was soon privatized. She left in April 2002 to take a new job. By then, she had decided to stay in Scotland for the long term. She had the remainder of her possessions shipped from Toronto two years later.

– **The Appellant severed ties with Canada — while keeping her options open**

[25] During much of her time in Canada, the Appellant shared an apartment with a friend. To her recollection, she never signed a lease, nor was her name ever on any utility bills; she simply reimbursed her friend for her share of the rent and other common expenses. She had previously leased a car but, after letting the lease lapse in 1999, she began using her flatmate's vehicle to get to work. She believes her friend would have allowed her to resume sharing her apartment if she had returned to Toronto.

[26] In October or November of 2000, the Appellant requested, and was granted, a one-year leave of absence from her job as a manager at X Hospital. Toward the end of that year, she obtained a three-month extension, and in February 2002, she formally resigned from her Canadian job.[10] At that point, the Appellant agrees that she ceased to be a resident of Canada.

---

[9] In the questionnaire, the Appellant wrote that an "opportunity had arisen to work with a friend in the UK." This wording suggests that the X contract fell into the Appellant's lap, but at the hearing it emerged that her "friend" was more of a colleague, one with prominence in her field, whom she had never met in person until the conference.

[10] See letter dated February 14, 2002 from P. C. acknowledging the Appellant's resignation from X Hospital, AD1-20. I note that Ms. C. wrote that many of the Appellant's colleagues "thought you might not

[27] At the hearing, I noted that the Appellant's resignation came almost precisely 20 years after her arrival in Canada. I asked her whether, at the time, she happened to be aware of the OAS pension's 20-year minimum threshold for overseas recipients. She replied that she might have been but couldn't be sure.

[28] Whatever the Appellant's motivation for resigning when she did, I find that, when she accepted the X contract, she either knew she wouldn't be coming back to Canada or suspected the chances of her coming back were very low. Still, the Appellant had a good job in Canada, so it made sense for her to not immediately cut all her ties in Toronto and to keep the option of returning open as long as possible.

[29] If things hadn't worked out in the UK, the Appellant would have been able to return to her job and her friend's apartment. However, as I've noted, fallback options are not equivalent to firmly established ties.

– **The Appellant's ties to the UK were stronger during the relevant period**

[30] From January 2001 to February 2002, the Appellant's connections to the UK outweighed her connections to Canada.

[31] When she relocated to Glasgow in January 2001, she moved into her mother's flat but, because it was rent subsidized, she soon had to move out. After a couple of months staying with a friend, she rented her own place.

[32] The Appellant not only lived in the UK, she leased an apartment in her own name, something that she had apparently never done while in Canada. She also bought a used car to get to work and registered with a general practitioner to access the UK's National Health Service (NHS). As a citizen of the UK, she had the right to do so but, at some level, it also meant that she was declaring herself to be a resident of the UK, since non-residents are barred from NHS coverage.

---

return," suggesting that the Appellant had telegraphed her intention to permanently relocate while still in Canada.

[33] At some point after her departure from Canada, the Appellant took the trouble to notify the Canada Customs and Revenue Agency (now the CRA) of her changed circumstances. She claims that the CRA deemed her a "factual resident" for the 2001 income tax year. She says that she filed an income tax return and declared her global income for that year, although she did not have to pay any additional Canadian tax on top of what she had already been assessed in the UK.[11]

[34] There is nothing on file to confirm that the CRA declared the Appellant a "factual resident" for 2001, but even if it did, I wouldn't give such a declaration much weight. I don't know the extent to which the CRA investigated her residency status during that year. More than that, the *Income Tax Act* defines residence in a way that differs from the *Old Age Security Act*.

– **The Canada-U.K. Social Security Agreement doesn't help the Appellant**

[35] Canada has entered into agreements with many countries that, to varying degrees, allow reciprocal recognition of each other's social security schemes. Some countries have negotiated agreements that allow periods of residence in the reciprocating country to be counted toward the minimum 20 years required to receive an OAS pension while residing outside of Canada.

[36] Unfortunately, the UK is not among those countries. Canada and the UK entered into an agreement on social security matters in 1998, but it is limited to the coordination of social security coverage and doesn't contain any provisions to help claimants qualify for pension benefits from either country.[12] The only part of the agreement that deals with the *Old Age Security Act* is Article 8, which specifically bars periods of residence in the UK to be totalized determining eligibility for the OAS pension.

---

[11] See the Appellant's letter to the Canada Customs and Revenue Agency (CCRA) dated April 12, 2002, GD2-35. There is nothing on file from the CCRA to confirm that it did, in fact, designate the Appellant as a "factual resident" for the 2001 taxation year.

[12] The formal name of the agreement, which came into effect on April 1, 1998, is the Convention on Social Security Between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland.

Conclusion

[37] In the end, the evidence led me to conclude that the Appellant ceased to be a resident of Canada as of January 2001. That was the month she left Toronto, having accepted a one-year contract with X. At the time of her departure, the Appellant likely knew that she would not be returning to Canada. In Scotland, she had a job, an apartment, and a car, and her elderly, widowed mother was nearby. Although she retained her Canadian bank accounts and took pains to preserve options to return to her old apartment and job, those contingencies were outweighed by her ties to the UK during the period in dispute.

[38] The Appellant resided in Canada for 18 years and 11 months, short of the 20 years required to receive the OAS pension while living abroad.

[39] The appeal is dismissed.

Member, Appeal Division