



[TRANSLATION]

Citation: *AL v Minister of Employment and Social Development and The Estate of MC*, 2025 SST 76

Social Security Tribunal of Canada

Appeal Division

Leave to Appeal Decision

Applicant: A. L.

Respondent: Minister of Employment and Social Development

Added Party: The Estate of M. C.

Decision under appeal: General Division decision dated December 20, 2024 (GP-24-846)

Tribunal member: Jude Samson

Decision date: February 3, 2025

File number: AD-25-36

Decision

[1] Permission to appeal is refused. The appeal won't go ahead.

Overview

[2] A. L. is the Applicant. The Minister of Employment and Social Development (Minister) issued a reconsideration decision that created an overpayment in his account.

[3] The Minister's decision is about the Applicant's marital status. According to the Minister, the Applicant had been in a common-law relationship since June 2020, while being paid the Guaranteed Income Supplement (GIS) at the single rate. So, the Minister asked the Applicant to pay back a \$8,890.74 overpayment for the period from June 2020 to April 2023.

[4] The Applicant appealed to the Social Security Tribunal's General Division. He argued that the Minister should have considered the fact that he had reported the change in his marital status to the Canada Revenue Agency (CRA).

[5] The General Division dismissed the Applicant's appeal. It found that the Tribunal can't review the Minister's decisions about administrative errors.

[6] The Applicant now wants to appeal the General Division decision to the Appeal Division. He repeats the same arguments he made before the General Division.

[7] I find that there is no arguable case that the General Division made an error recognized by the law. Also, the Applicant hasn't presented any new relevant evidence. So, I have to refuse him permission to appeal.

Issues

[8] The issues are the following:

- a) Is there an arguable case that the General Division made an error of law in finding that the Tribunal can't review the Minister's decisions about administrative errors?
- b) Are there other reasons for giving permission to appeal?

I am refusing permission to appeal

[9] I can give the Applicant permission to appeal if, in his application, he raised an arguable case that the General Division:

- didn't follow a fair process
- decided something it didn't have the power to decide, or didn't decide an issue it should have decided
- misinterpreted the law or applied it incorrectly
- got the facts wrong¹

[10] I can also give the Applicant permission to appeal if his application contains evidence that wasn't before the General Division.²

– The General Division didn't make an error of law

[11] In his application to the Appeal Division, the Applicant again alleged that he had been overpaid GIS benefits because of an administrative error. Specifically, he argued that, when the Minister checked whether he was eligible for benefits with the CRA, it should have confirmed his marital status at the same time.

¹ See sections 58(1)(a) and 58(1)(b) of the *Department of Employment and Social Development Act* (Act).

² See section 58(1)(c) of the Act.

[12] I can paraphrase the Applicant's argument this way: The Minister had to apply section 37(4)(d) of the *Old Age Security Act*, and it had to write off the Applicant's overpayment because he was overpaid benefits—without it being his fault. This provision says that the Minister can waive or forgive a debt when it results from an administrative error in the administration of the law.

[13] But the General Division found that it didn't have jurisdiction to review the Minister's decision on this matter.

[14] The General Division's finding has a strong legal basis for these reasons:

- The Applicant had to tell the Minister of any changes in his marital status.³
- It isn't enough to tell the CRA.⁴
- The Tribunal doesn't have jurisdiction either to decide whether a debt has to be reduced because of an administrative error or to review the Minister's decision on this matter.⁵
- The Tribunal can't rely on fairness principles or consider specific situations—like the Applicant's financial means—to write off a debt.

[15] So, I find that the Applicant hasn't raised an arguable case that the General Division made an error of law.

– **There is no other reason to give permission to appeal**

[16] The Applicant's application doesn't contain any new relevant evidence that wasn't before the General Division. So, I can't give him permission to appeal for this reason.

³ Section 15 of the *Old Age Security Act* sets out this requirement.

⁴ See *Barry v Canada (Attorney General)*, 2010 FC 1307.

⁵ See *Canada (Minister of Human Resources Development) v Tucker*, 2003 FCA 278.

[17] In addition to the Applicant's arguments, I reviewed the file and the General Division decision.⁶ But I found no other reasons to give permission to appeal.

[18] I sympathize with the Applicant. If he is in a difficult financial situation, he can consider asking the Minister—through Service Canada—to reduce the amount being withheld from his monthly payments.

Conclusion

[19] Since the Applicant hasn't raised an arguable case and hasn't presented new evidence, I have to refuse him permission to appeal. This means that the appeal won't go ahead.

Jude Samson
Member, Appeal Division

⁶ The Federal Court has said that I have to do this in *Griffin v Canada (Attorney General)*, 2016 FC 874; and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.