



[TRANSLATION]

Citation: *LM v Minister of Employment and Social Development*, 2025 SST 469

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant:	L. M.
Respondent:	Minister of Employment and Social Development
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Decision under appeal:	General Division decision dated February 10, 2025 (GP-24-936)
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Tribunal member:	Jean Lazure
Decision date:	May 2, 2025
File number:	AD-25-305

Decision

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

Overview

[2] The Applicant and her spouse applied for benefits¹ under the *Old Age Security Act* (OAS Act) on January 12, 2023. The Minister approved their application on August 10, 2023, giving them the maximum retroactivity allowed under the OAS Act. The Applicant and her spouse asked for this decision to be reconsidered.² In a reconsideration decision letter, the Minister upheld its initial decision.³

[3] The Applicant and her spouse each filed an appeal with the Social Security Tribunal (Tribunal) on May 28, 2024.⁴ The Tribunal administratively joined their appeals to the Applicant's file. On February 7, 2025, the General Division dismissed the appeal. It said that the Tribunal could not grant more retroactivity than what the OAS Act allows, and that the Tribunal also has no jurisdiction over an administrative error.⁵

[4] The Applicant asked the Appeal Division for permission to appeal that decision.⁶

Issue

[5] The issue is as follows: Has the Applicant raised a ground of appeal under the law?

¹ The Applicant applied for an Old Age Security (OAS) pension. Her spouse applied for a Guaranteed Income Supplement (GIS) because he was already receiving an OAS pension.

² On September 19, 2023, at GD2-18.

³ On March 26, 2024, at GD2-22.

⁴ See the Applicant's at GD1-1.

⁵ See paragraphs 29 and 30 of the General Division decision.

⁶ On April 23, 2025, at AD1-1.

I am not giving the Applicant permission to appeal

[6] I can give the Applicant permission to appeal if her application raises 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 wrong
- made an error in applying the law to the facts⁷

[7] I can also give the Applicant permission to appeal if her application has evidence that wasn't provided to the General Division.⁸

[8] The Applicant has to raise one of the grounds of appeal listed above. The law doesn't provide for any other grounds of appeal.

– What the Applicant says

[9] Now, in the very first sentence of her application for permission to appeal, the Applicant said that her application [translation] "isn't based on an error by the General Division [*sic*], but on a probable administrative error."⁹

⁷ See sections 58.1(a) and 58.1(b) of the *Department of Employment and Social Development Act* (DESD Act).

⁸ See section 58.1(c) of the DESD Act.

⁹ See AD1-5.

– **What the General Division said in its decision**

[10] In its decision, the General Division specifically said that the Tribunal “doesn’t have jurisdiction to deal with issues of administrative errors.”¹⁰ The General Division said that this is an authority that is the Minister’s alone under the law.¹¹

[11] I don’t see any arguable case that the General Division made an error in these findings. It is possible that the Applicant confused asking the Minister for a remedy under section 32 of the OAS Act with appealing to the Tribunal’s Appeal Division—that is, a remedy after erroneous advice or an administrative error.

[12] I also don’t see any arguable case that the General Division made an error of law in its findings about the retroactivity of the Guaranteed Income Supplement (GIS) and the Allowance (ALW).¹² The law limits retroactivity for both the GIS and the ALW to 11 months before the application is received.¹³ And, as the General Division noted,¹⁴ the Applicant is asking for more retroactivity than what the OAS Act allows. The Tribunal simply has no discretion to grant that.

– **What I conclude from this**

[13] The Applicant hasn’t provided any new evidence. This means that the new evidence can’t be used to support giving permission to appeal.

[14] I have reviewed the file.¹⁵ I am satisfied that there is no arguable case that the General Division ignored or misinterpreted other evidence that could have affected the outcome of the Applicant’s appeal.

¹⁰ See paragraph 25 of the General Division decision.

¹¹ Under section 32 of the *Old Age Security Act* (OAS Act). The General Division says this at paragraph 27.

¹² See paragraphs 22 to 24 of the General Division decision.

¹³ See sections 11(7)(a) and 19(6)(a) of the OAS Act.

¹⁴ See paragraph 21 of the General Division decision.

¹⁵ For more on this type of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

[15] Since the Applicant hasn't raised a ground of appeal under the law, I have to refuse her permission to appeal.

Conclusion

[16] Permission to appeal is refused. This means the appeal won't go ahead.

Jean Lazure
Member, Appeal Division