



[TRANSLATION]

Citation: *JB v Minister of Employment and Social Development*, 2025 SST 514

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant:	J. B.
Respondent:	Minister of Employment and Social Development
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Decision under appeal:	General Division decision dated January 6, 2025 (GP-18-2272)
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Tribunal member:	Jean Lazure
Decision date:	May 15, 2025
File number:	AD-25-81

Decision

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

Overview

[2] The Applicant applied for an Old Age Security (OAS) pension on June 26, 2013.¹ The Minister of Employment and Social Development (Minister) approved his application but granted him a partial pension of 36/40.² The Applicant asked for that decision to be reconsidered.³ In a reconsideration decision letter, the Minister maintained its initial decision.⁴

[3] The Applicant appealed to the Social Security Tribunal (Tribunal) on August 16, 2016.⁵ On April 30, 2018, the General Division found that he wasn't eligible for a full OAS pension. He asked the Appeal Division for permission to appeal that decision.⁶ On September 21, 2018, the Appeal Division allowed his appeal and returned the file to the General Division.

[4] On December 31, 2024, the General Division confirmed the Minister's decision that the Applicant was eligible only for a partial pension of 36/40. The Applicant asked the Appeal Division for permission to appeal that decision.⁷

¹ This is at GD2-19.

² Initial approval was given on January 14, 2016, at GD2-16. Correction dated May 27, 2016, at GD2-13.

³ On May 13, 2016, at GD2-14. The Minister accepted the late reconsideration request on July 8, 2016, at GD2-7.

⁴ On July 14, 2016, at GD2-3.

⁵ See GD1-1.

⁶ On July 2, 2018, at AD1-1.

⁷ On February 4, 2025, at ADN1-1.

Issues

[5] The issues are as follows:

- a) Is there an arguable case that the General Division made an error of fact by ignoring evidence?
- b) Is there an arguable case that the General Division failed to observe a principle of natural justice by not helping the Applicant bring witnesses?
- c) Does the application have evidence that wasn't provided to the General Division?

I am not giving the Applicant permission to appeal

[6] I can give the Applicant permission to appeal if his appeal 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 wrong⁸

[7] I can also give the Applicant permission to appeal if his application has evidence that wasn't provided to the General Division.⁹

[8] Since the Applicant hasn't raised an arguable case and hasn't presented any new evidence, I have to refuse him permission to appeal.

⁸ See sections 58.1(a) and 58.1(b) of the *Department of Employment and Social Development Act* (DESD Act).

⁹ See section 58.1(c) of the DESD Act.

– **There is no arguable case that the General Division made an error of fact by ignoring evidence**

[9] The first ground the Applicant raises is that he is a member of the Ordre des ingénieurs du Québec [Quebec order of engineers], as well as the [translation] “copies of the hundreds of applications as an engineer in Canada.”¹⁰ In fact, the evidence he refers to was already part of the General Division file and appeared in many parts of the file.¹¹

[10] The Applicant didn’t specify in his application for permission to appeal which years these points might support his residence. But it seems that he worked as an engineer as early as 1975, after completing his studies.¹² And he said he paid his dues to the Ordre des ingénieurs until 2018.¹³

[11] I am of the view that the Division carried out a thorough and careful analysis of the possible periods of residence—the ones that were disputed, meaning after October 2003¹⁴—for the Applicant in Canada.¹⁵ For the years that were disputed, it did focus on the Applicant’s periods of presence in and absence from Canada. But its analysis was also based on many factual points it referred to.¹⁶

[12] The General Division also specifically referred to two points the Applicant mentioned in his application for permission to appeal:¹⁷ the fact that he [translation] “graduated in Quebec, in CYBERSECURITY, in 2018,”¹⁸ and the Applicant’s house.¹⁹

¹⁰ See ADN1-5.

¹¹ The confirmation of payment of dues to the Ordre des ingénieurs du Québec [Quebec order of engineers] is at GD2-100. The Applicant also refers to it in correspondence at IS20-7 and IS22-6. Service offers are at GD2-472 to GD2-494 and GD4-3 to GD4-200. Finally, the Applicant filed his resume with the General Division many times at GD2-105, GD2-259, IS15-3, IS17-3, IS28-6, IS29-7, and IS30-5.

¹² See IS30-6.

¹³ See IS20-7.

¹⁴ The period between April 1967 and October 2003 isn’t in dispute.

¹⁵ See paras 30 to 66 of the General Division decision.

¹⁶ See also paras 37, 38, 39, 40, 44, 45, 56, 58, 61, and 64 of the General Division decision.

¹⁷ See ADN1-5.

¹⁸ See para 58 of the General Division decision.

¹⁹ See para 61 of the General Division decision.

[13] The General Division didn't specifically mention the facts supporting this first ground that the Applicant raised: that he was a member of the Ordre des ingénieurs du Québec and that he offered his services in that capacity.

[14] But the General Division doesn't need to refer to every piece of evidence before it.²⁰ Instead, it is presumed to have considered all of the evidence. Still, the General Division can make an error of law if it doesn't assess the evidence judicially. This can happen, for example, if the General Division doesn't mention important evidence or if it ignores major contradictions in the evidence.²¹

[15] The General Division also referred to the document the Applicant filed on October 24, 2020.²² This supports the presumption that it considered that evidence.

[16] In any event, I am of the view that the fact the Applicant was a member of the Ordre des ingénieurs du Québec, as well as his offers of services, isn't enough to raise an arguable case that the General Division made an error of fact by ignoring evidence. I don't believe this evidence is so important that the General Division would have been expected to refer to it explicitly in its analysis.

[17] Finally, the Applicant said in his application for permission to appeal that [translation] "[t]he director of pensions sent [him] a letter almost 10 years ago, after [he] gave his exact dates of absence from Canada, saying that [he] was eligible for the SUPPLEMENT."²³ Even if the General Division didn't consider this point, this doesn't raise an arguable case of error. The General Division isn't bound by any advice that the Minister's representatives might have given to the Applicant.

[18] Because of this, I don't believe this ground raises an arguable case that the General Division ignored evidence important enough to overturn the presumption that it considered all of the evidence.

²⁰ See *Simpson v Canada (Attorney General)*, 2012 FCA 82 at para 10.

²¹ See *Lee Villeneuve v Canada (Attorney General)*, 2013 FC 498 at para 51.

²² See IS20. The General Division refers to this in its footnotes at pages 27 and 32.

²³ See ADN1-5.

[19] Finally, I have reviewed the file.²⁴ I am satisfied that it isn't possible to argue that the General Division ignored or misinterpreted other evidence that could support an arguable case that the General Division made an error.

– **There is no arguable case that the General Division failed to observe a principle of natural justice by not helping the Applicant bring witnesses**

[20] The Applicant said in his application for permission to appeal that he [translation] “didn't go to the hearing because the member refused to help [him] bring the witnesses. HOW could an old man like [him], with three heart surgeries, know where G., P., N., and the COORDINATOR are.”²⁵

[21] The General Division clearly told the Applicant, four times before the hearing,²⁶ that the Tribunal doesn't bring witnesses for appellants. This is a choice and a responsibility that is up to appellants.

[22] First, I see no arguable case that the General Division made an error when it told the Applicant this. Administrative tribunals only have the powers that the law gives them. And the Tribunal doesn't have the power to compel witnesses. I also reiterate that the General Division told the Applicant this no fewer than four times over a period of almost two years.

[23] So, with this information, the Applicant knowingly chose not to take part in the hearing.²⁷ The General Division went ahead in his absence.²⁸ I see no arguable case that the General Division made an error in doing so. As a result, there is no arguable case that the General Division failed to observe a principle of natural justice by not helping the Applicant bring witnesses.

²⁴ For more information on this type of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

²⁵ See ADN1-5.

²⁶ See IS37, IS44, IS62, and IS66, from November 3, 2022, to September 17, 2024.

²⁷ See the Applicant's email dated September 18, 2024, at IS67.

²⁸ The General Division dealt with this in paras 19 to 21 of its decision.

[24] Finally, the Applicant didn't submit any new evidence before the Appeal Division.²⁹

[25] Since the Applicant hasn't raised an arguable case and hasn't presented any new evidence, I have to refuse him permission to appeal.

Conclusion

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

Jean Lazure
Member, Appeal Division

²⁹ The Applicant confirmed this at ADN1-6.