Citation: *Minister of Employment and Social Development v JP*, 2025 SST 1377

Social Security Tribunal of Canada
Appeal Division

Decision

Appellant:	Minister of Employment and Social Development
Representative:	Sandra Doucette and Viola Herbert
Respondent:	J. P.

Decision under appeal:	General Division decision dated March 14, 2025 (GP-24-1597)

Tribunal members:	Neil Nawaz Kate Sellar Pierre Vanderhout
Type of hearing:	Videoconference
Hearing date:	October 10, 2025
Hearing participants:	Appellant's representatives Respondent
Decision date:	December 23, 2025
File number:	AD-25-378

Decision

[1] The appeal is dismissed. The Respondent does not need to cancel her Old Age Security (OAS) pension, as it never lawfully started. Her OAS pension will only start when she makes a valid application, and the Appellant then approves that application.

Overview

[2] This appeal is about how an OAS pension can lawfully start through the auto-enrollment process.

[3] We will refer to the Appellant, the Minister of Employment and Social Development, as the "Minister." We shall also use the term "Service Canada" to describe the organization that provides services on the Minister's behalf.

[4] The Respondent turned 65 in November 2022. The following month, Service Canada automatically approved her for an OAS pension.[1] Since she had a high income at the time, her OAS pension was completely clawed back, and nothing was actually deposited into her account.

[5] The Respondent claims that she was never notified of the approval. After realizing that she was officially an OAS pensioner, she asked Service Canada to defer her pension.[2] Service Canada refused the request, because it came more than six months after the first date of payment.[3]

[6] The Respondent appealed Service Canada's refusal to the Social Security Tribunal (Tribunal). The Tribunal's General Division held an in-person hearing and allowed the appeal. It found that Service Canada hadn't given the Respondent prior notice of its intention to automatically enroll her for the OAS pension, as required by the law.

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[1] Service Canada is the agency that the Minister uses to deal with the public. In this decision, we will be using the terms "Minister" and "Service Canada" interchangeably.
[2] See the Respondent's letter dated January 9, 2024, GD2-30.
[3] See the Minister's reconsideration decision letter dated August 6, 2024, GD2-39.

[7] The Minister didn't agree with this decision. The Minister went to the Tribunal's Appeal Division, which granted her permission to appeal. The Appeal Division then established a three-member panel to hear the matter in full.

Issue

[8] The question to be answered in this appeal is whether the Respondent is entitled to cancel her OAS pension. But this requires us to first decide whether Service Canada gave the Respondent adequate notice under the law of its intention to automatically enroll her for an OAS pension.

Analysis

[9] For the reasons set out below, we find that Service Canada's auto-enrollment program could have provided the required notice to the Respondent. However, we also find that the Minister has not proven that it actually sent that notice to the Respondent. As a result, the Respondent's OAS pension never lawfully began, and she does not need to cancel it.

[10] For many years, seniors had to complete and submit an application if they wanted to receive an OAS pension. In 2013, Parliament amended the *Old Age Security Act* (OASA) to automatically enroll some seniors when they turned 65.[4] At the same time, the law was changed to allow seniors to defer receiving their OAS pension up to age 70 in exchange for a higher monthly rate.[5]

[11] If the Minister intends to automatically enroll a senior for the OAS pension, it must notify them in writing of that intention and give them the information it intends to rely on to approve payment of the pension.[6] This is supposed to give the intended recipient a chance to opt out of automatic enrollment.[7] Once payment starts, the

[4] See section 5(4) of the *Old Age Security Act* (OASA).
[5] See section 7.1 of the OASA.
[6] See section 5(5) of the OASA.
[7] See section 5(7) of the OASA.

recipient has a six-month window in which to cancel their pension.[8] After the six months have elapsed, there is no way to opt out.

[12] The Minister maintains that Service Canada sent the Respondent several notices of its intention to automatically enroll her for the OAS pension, both before and after she turned 65. The Minister argues that, for a notice to be valid under the OASA, there only needs to be proof that it was sent, not that it was received.

[13] The Respondent insists that she never received any notices. She says that she had no way of knowing she was an OAS recipient until after the six-month cancellation deadline had passed. She argues that, unless she received notice, there was no basis for Service Canada to automatically enroll her, and she asks that the pension be cancelled.

[14] We will now look at whether the Minister can rely on its auto-enrollment program to provide notice to the Respondent.

A law's meaning depends on its text, context, and purpose

[15] A key aspect of this case is what notice means under the auto-enrollment provision of the OASA. What has to go into the notice? When must it be sent? Does the Minister have to verify that it was received?

[16] The modern approach to statutory interpretation requires words in a legislative provision to be read in their "entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament."[9]

[17] This means that, when interpreting legislation, we have to follow some guiding principles:

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[8] See section 9.3 of the OASA and section 26.1(1) of the *Old Age Security Regulations*.
[9] See *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC).

- If the words in the legislation are clear, then we must give significant weight to the ordinary meaning of those words.[10]
- We must take a close look at the legislation's text, context, and purpose.[11]
- We must interpret the legislation generously and in a way that is most compatible with what it was designed to do.[12]

[18] We have applied these principles to the OASA. We find that the Minister has the power to automatically enroll select persons as OAS pensioners, but it must first notify them of its intention to do so. The notice must contain key information but, once it is sent, the Minister does not need to confirm that it was received.

– The text of the OASA mandates a detailed notice of auto-enrollment

[19] According to the law, the Minister can't auto-enroll a person for the OAS pension unless it first gives them written notice of its intention to do so. Section 5 of the OASA reads in part:

> **Waiver of application**
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> (4) The Minister may, on the day on which a person attains 65 years of age, waive the requirement referred to in subsection (1) for an application if the Minister is satisfied, **based on information that is available to him or her under this Act**, that the person is qualified under subsection 3(1) or (2) for the payment of a pension.
>
> **Notice of intent**
>
> (5) If the Minister intends to waive the requirement for an application in respect of a person, the Minister shall notify the person in writing of that intention and provide them with **the information on which the Minister intends to rely** to approve the payment of a pension.
>
> [Emphasis added]

[20] The wording of these sections suggests that notice of waiver must be given **before** the Minister actually enrolls a person for the OAS pension. After all, one can

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[10] See *Canada (Minister of Citizenship and Immigration)* v *Vavilov*, 2019 SCC 65.
[11] See *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC).
[12] See section 12 of the *Interpretation Act*.

only “intend” to perform an act if that act lies in the future.[13] The Minister must give advance written notice of its intention to waive the application and must provide the information on which it intends to rely to approve. But what is that “information”?

[21] To approve an OAS pension, the Minister must be satisfied that a person is qualified under sections 3(1) or 3(2) of the OASA:

- Section 3(1) says that a full pension may be paid to a person who has attained 65 years of age and has resided in Canada after age 18 for at least 40 years.

- Section 3(2) says that a partial pension may be paid to a person who has attained 65 years of age and lived in Canada for more than 10 years but less than 40.

[22] However, the “information on which the Minister intends to rely” in section 5(5) must be a subset of the “information that is available to him or her” in section 5(4). That information is precisely defined elsewhere, and it effectively eliminates the possibility of auto-enrolling a person who is eligible for only a partial pension.

[23] That’s because of section 4.1 of the OASA. It says that, if the Minister intends to waive the requirements for an application for a person under section 5(4) and “the information available to the Minister… includes **the prescribed information** [emphasis added],” then the person is presumed to be entitled to the OASA pension.

[24] The “prescribed information” is, in turn, defined by the *Old Age Security Regulations* (OASR). Sections 21(8)(b) and 22(2) of the OASR say that, for the purposes of section 4.1 of the OASA, the prescribed information is:

(i) a current address in Canada;

(ii) at least 40 years of unadjusted pensionable earnings above the basic exemption under the *Canada Pension Plan* or *Quebec Pension Plan*; and

[13] In this decision, we will use the terms “waiver of application” and “auto-enrollment” interchangeably.

(iii) income tax returns filed as a resident of Canada for at least 40 years and for the most recent calendar year.

[25] The net result is that the Minister will auto-enroll persons for the OAS pension only if they currently live in Canada and have worked in Canada for 40 or more years. These factors are presumed to be proxies for proof of long-term Canadian residence and indicators of persons who are a safe bet to be genuinely entitled to an OAS pension.

[26] This means that the notice of intent sent to persons earmarked for auto-enrollment must include the following minimum information:

- The fact that the person has a current address in Canada;
- The fact that the person is about to turn 65; and
- The fact that the person has resided in Canada after age 18 for 40 years or more.

Any notice omitting one of these items will fail to meet the requirements of section 5(5) of the OASA.

– Contextual factors suggest a notice of auto-enrollment doesn't require confirmation of receipt

[27] A properly constituted notice of intent must be "sent" by the Minister to the recipient. But does the notice also have to be received by the intended recipient for it to be valid? Our examination of comparable notice provisions in the OASA suggests that it does not.

[28] The OASA allows the Minister to auto-enroll persons for, not just the OAS pension, but also subsidiary benefits, such as the Guaranteed Income Supplement and the Allowance. Each comes with a provision that mirrors section 5(5) of the OASA, requiring the Minister to send a notice of intent to waive the application.[14] None contains language that explicitly requires the Minister to confirm receipt of the notice.

[14] See sections 11(3.2), 15(2.3), and 19(4.2) of the OASA.

[29] But elsewhere, the OASA **does** contain provisions that require confirmation of receipt. When the Minister wishes to garnish the wages or accounts of a recipient who is indebted to the Crown, section 37(2.7) explicitly calls for a notice to be "served personally or by confirmed delivery service" to the third-party employer or bank. When the Minister requires information or documents from a person, section 44.2(6) also requires personal service or a signature on delivery.

[30] From this, one can reasonably infer that any OASA provision lacking such specific language does not require evidence the notice was in fact received by the addressee. If Parliament had intended section 5(5) to require proof of receipt, then it would have drafted the provision to explicitly say so.

[31] The courts have adopted a similarly restrictive approach to notice. Section 5(5) of the OASA has never been the subject of a comprehensive legal analysis, but the concept of notice has been explored in other federal contexts.

[32] In a case called *Jiang*, the Federal Court found the Minister of National Revenue had no obligation to demonstrate that a taxpayer had received mail from the Canada Revenue Agency (CRA).[15] That case referred to *Bowen*, in which the CRA unsuccessfully tried to notify a taxpayer by registered mail on three separate occasions. Despite the fact that the documents were returned as undelivered, the Federal Court of Appeal decided that the Minister had fulfilled his duty to notify the taxpayer. It found nothing in the *Income Tax Act* that required the taxpayer to have received notice. It concluded that the taxpayer's failure to update his address "could not be laid at the feet of the Minister."[16]

[33] In *Rossi*, the CRA sent a notice of confirmation to the taxpayer and his accountant, who both denied that they had ever received it.[17] The taxpayer argued that the CRA had a duty to ensure delivery of the notice, but the Federal Court of Appeal disagreed:

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[15] See *Jiang v Canada (Attorney General)*, 2019 FC 629.
[16] See *Bowen v Minister of National Revenue*, 1991 CanLII 13528 (FCA).
[17] See *Rossi v Canada*, 2015 FCA 267.

> First, there is clear evidence that the notice of confirmation was sent to the appellant by registered mail at the address the appellant had himself provided; moreover, the fact that it was sent is not in dispute. Second, neither subsection 165(3) nor section 169 requires that notice be served, or that it be proven that it was received by the taxpayer. [Prior decisions] clearly hold that the Minister is not required to verify whether the taxpayer has actually received a notice sent by registered mail, once it is proven that the notice was sent by the Minister to the address provided by the taxpayer. **The fact that the Act has been amended and no longer makes it mandatory to use registered mail does nothing to alter this principle.** [Emphasis added][18]

[34] Here, the Court explicitly stated that, even if a notice were sent by regular mail, the Minister would not have to verify whether the intended recipient received it.

[35] *Rossi* cited another tax case called *Grunwald*, in which the Federal Court of Appeal took into account the government's need to process large volumes of documentary material:[19]

> Under subsection 165(1) of the *Income Tax Act*, it is assumed that notice is given to a taxpayer simply by the mailing of the assessment to the taxpayer. Presumably, for administrative efficiency, Parliament did not want to burden the Minister, who is dealing with millions of assessments each year, with having to personally serve notices of assessment or with having to prove that each taxpayer received a mailed notice of assessment… However, to interpret subsection 165(1) as depriving the Minister of the ability to start the clock on the 90-day objection period by providing actual notice to a taxpayer by means of personal service would be contrary to the object and intent of Parliament and would produce an illogical result.[20]

[36] The above cases all involve the *Income Tax Act*, whose notice requirements differ in form and content from the OASA's. But at least one Federal Court case addresses what it means to give notice in the OAS context, and it too relieves the Minister from any duty to verify receipt.

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[18] *Ibid*., paragraph 7.
[19] See *Grunwald v Canada*, 2005 FCA 421.
[20] *Ibid*., paragraph 22.

[37] *Pike* involved a similar, albeit not identical, situation to the Respondent's.[21] In June 2013, just before the auto-enrollment provisions went into effect, the Minister sent a "special notification letter" to 280,000 individuals who were slated to receive the OAS pension. The letter was intended to let new recipients know that they now had the option to cancel or defer their pension. However, that letter was not sent pursuant to section 5(5) of the OASA, because that provision had not yet come into force.

[38] The special notification letter appears to have been initiated purely at the Minister's discretion. Unlike the notices that would soon be required under section 5(5), it was not driven or shaped by any statutory or regulatory requirements, even if it served much the same purpose.

[39] The claimant in *Pike* insisted that he had never received the special notification letter. As a result, like the Respondent, he didn't ask Service Canada to defer his pension within the six-month deadline. The Minister refused him discretionary relief, denying that it had committed an administrative error, but the Federal Court ultimately disagreed and ordered the Minister to reconsider its refusal. However, in doing so, it declared that notice usually requires proof of transmission and nothing more:

> It is correct that the Minister is not obligated to demonstrate that Mr. Pike received the special notification letter. **The Minister need only demonstrate that the letter was sent.** However, in my view, the record does not demonstrate that the special notification letter was sent to Mr. Pike. [Emphasis added][22]

[40] As noted, the facts and law in *Pike* are not perfectly analogous to those in the Respondent's case, but they are substantially the same. Both involve claimants seeking to defer their OAS pension while alleging that they hadn't received notice of their right to do so. We are required to follow and apply decisions of the Federal Court. The above passage makes clear that when the Federal Court had the opportunity to consider notification in the context of OAS enrollment (and with only slightly different facts), it declined to read in a requirement for the Minister to prove receipt.

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[21] See *Pike v Canada (Attorney General)*, 2020 FC 415.
[22] *Ibid*., paragraph 51.

– **The auto-enrollment provisions are meant to maximize the number of OAS pension recipients as cost effectively as possible**

[41] The objective of the OASA is to ensure a minimum income for senior citizens and to help reduce poverty among this segment of the population. In a case called *Stiel*, the Federal Court described the OAS regime as follows:

> Unlike the Canada Pension Plan, OAS benefits are universal and non-contributory, based exclusively on residence in Canada. This type of legislation fulfills a broad-minded social goal, one that might even be described as typical of the Canadian social landscape. It should therefore be construed liberally, and persons should not be lightly disentitled to OAS benefits.[23]

[42] The reforms implemented in 2013 were intended to further the OASA's liberal purpose. By eliminating the application requirement in some circumstances, the government expected to approve many more seniors for the full pension. By permitting deferral of the OAS pension past age 65, the government recognized that Canadians were living longer and hoped to give working seniors more financial flexibility.

[43] However, automatic enrollment came with a built-in risk. Some high-income seniors, like the Respondent, might not notice that they were formally getting the OAS pension, costing them the chance to defer it for a higher rate. Hence, the notification provision, which requires the Minister to send a detailed notice of impending enrollment to seniors meeting specific eligibility criteria.

[44] Automatic enrollment was intended to remove the burden on seniors to complete an application, but it also promised to benefit the government by reducing processing costs. This is not a trivial concern. The OASA benefits millions of Canadians, but it comes at a cost.

[45] It would be exquisitely fair to high-earning seniors with inconsistent mail delivery if the law required the Minister to verify that every notice of auto-enrollment actually reached its intended recipient. But it would also be impractical given the specificity of

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[23] See *Canada (Minister of Human Resources Development) v Stiel*, 2006 FC 466, at paragraph 28. See also *Ward v Canada (Minister of Human Resources and Social Development)*, 2008 TCC 25, at paragraph 8.

the Respondent's predicament. More to the point, it would also go against a reading of section 5(5) that, in the context of the OASA as a whole and in light of relevant case law, requires proof only that the notice was sent. If notice required proof of receipt, we might have expected to see a process by which the Minister would confirm receipt in the OASR, but no such process is set out there.

Did Service Canada properly notify the Respondent?

[46] We have examined the text, context, and purpose of the OASA's deferral and auto-enrollment provisions. We find that, as long as the Minister can show that Service Canada sent at least one valid of notice of intent to the Respondent, whether by regular mail or by other means, it will have fulfilled its notice requirements.

[47] However, based on the evidence adduced in this case, we find that the Minister did not meet the burden of proving such notification.

– One letter would have met the statutory requirements

[48] One of the letters that Service Canada said it sent to the Respondent would have fulfilled the notice requirements under section 5(5) of the OASA.

[49] The Minister submitted a correspondence log suggesting that Service Canada mailed letters to the Respondent on the following dates:[24]

November 18, 2021	An OAS-GIS Auto-Enrollment Letter (form ISP 3030) stating that the Respondent had been selected for automatic enrollment for her OAS pension, which would begin one month after she turned 65.[25]
September 20, 2022	An OAS Auto-Enrollment Letter (ISP 3108) informing the Respondent that her pension would automatically start the month after her

[24] See extract from Service Canada's correspondence log, GD2-4.
[25] See Service Canada's undated Notice of Auto Enrollment, GD4-12.

	65th birthday and telling her what to do if she wanted to delay her pension.[26]
November 10, 2022	An OAS-GIS Auto-Enrollment Client Notification Letter (ISP 3092) informing the Respondent that she would start receiving the maximum OAS amount beginning December 2022 and that her income was too high for her to receive the GIS.[27]

[50] The Minister said these letters were all addressed to the Respondent's home address on X, where she has lived for many years. They all notified her that she would soon be receiving an OAS pension.

[51] However, a valid notice under section 5(5) of the OASA also requires it to contain "the information on which the Minister intends to rely to approve payment of the pension." As we have seen, the mandated essential requirements of such an approval are (i) a current address in Canada; (ii) an impending 65th birthday; and (ii) evidence of having lived in Canada for at least 40 years after age 18.

[52] The first letter would meet that standard. A copy of the exact document that Service Canada claimed to have sent to the Respondent on November 18, 2021, isn't on file. However, the Minister provided a sample of the letter that is sent to all potentially eligible OAS recipients one year before their 65th birthday. It reads:[28]

> We are pleased to inform you that your Old Age Security pension should start one month after you turn 65… Your pension is scheduled to start automatically based on the following information:
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> 1. Your year and month of birth are [blank].[29]
> 2. You are a Canadian citizen or a legal resident of Canada.

[26] See Service Canada's Notice of Auto-Enrollment dated September 20, 2022, GD2-6.
[27] See Service Canada's GIS Auto-Enrollment Client Notification dated November 10, 2022, GD2-9.
[28] See Service Canada's undated Notice of Auto Enrollment, GD4-12.
[29] This space is presumably populated by personalized information drawn from Service Canada's database.

> 3. You have lived in Canada for at least 40 years since the age of 18.
>
> If this information is correct, and you want to start your Old Age Security pension at age 65, you do not need to contact us or take any action.

[53] This letter contains the necessary elements required under section 5(5) of the OASA. First, it declares the Minister's intention to automatically enroll the addressee for an OAS pension. Second, it sets out the information on which the Minister intends to rely to approve automatic payment of the pension: current residence in Canada; an upcoming 65th birthday; and residence in Canada for 40 or more years after age 18.

[54] However, the other two other letters sent by the Minister before December 2022 are less detailed. The one dated September 20, 2022, says, "We previously sent a letter to inform you that your Old Age Security pension is scheduled to start automatically one month after you turn 65." The other, dated November 10, 2022, says only that the Respondent would start receiving the OAS pension the following month.

[55] Neither letter meets the statutory requirements. The one dated September 20, 2022, lists the Respondent's current Canadian address and refers to her impending 65th birthday, but it doesn't mention her 40 years of residence. The one dated November 10, 2022, is, again, addressed to the Respondent, but it says nothing at all about why she might be eligible for the OAS pension.

– Material sent after November 2022 doesn't meet the notice requirements

[56] Service Canada said it sent other documents to the Respondent after she was formally approved for her OAS pension:

- A notice, apparently sent in December 2022, informing the Respondent that the full amount of her OAS pension would be withheld until June 2023;[30]

[30] See Service Canada's undated form ISP 3086, GD2-11.

- A T4A tax slip for 2022, possibly sent in February 2023, showing OAS benefits paid to the Respondent in 2022 and the amount of income tax deducted;[31] and
- A notice, likely sent in July 2023, informing the Respondent that she would start receiving an OAS pension that month.[32]

[57] However, the Minister's letters dated after November 2022 can't be taken for notice of an event if that event has already happened. That's because the OASA calls on the Minister to automatically enroll pensioners when they turn 65, which in turn suggests that the notice of intent to do so must be sent **before** that date.[33] Put another way, only mailings sent before December 2022 can potentially qualify as valid notices of intent.

– The Minister's evidence isn't sufficient to show it sent the notice that complied with the requirements

[58] Only one notice would have complied with the requirements of section 5(5) of the OASA, but did Service Canada actually send it out? The evidence isn't sufficient to show that Service Canada mailed the notice to the Respondent.

[59] Service Canada says that it didn't start keeping actual copies of the auto-enrollment letters they send out until October 2022. However, it generated a record (log) of OAS mailings to the Respondent in the year leading up to her 65th birthday. As mentioned, only one of those mailings would have properly notified her of the Minister's intention to auto-enroll her for the OAS pension while disclosing information justifying that intention.[34]

[60] For her part, the Respondent does not dispute that Service Canada sent the notifications.[35] However, the question of whether Service Canada sent her the notice is a question of fact, and the burden of proof rests with the Minister on that question.

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[31] See OAS T4A tax slip for 2022, GD2-14.
[32] See Service Canada's undated form ISP 3086, GD2-16.
[33] See section 5(4) of the OASA.
[34] See extract from Service Canada's correspondence log, GD2-4.
[35] See the Respondent's Notice of Appeal to the General Division dated September 5, 2024, GD1-5.

[61] As there is no copy of the actual letters the Minister sent, the information recorded in the logs is critically important. A complete log could help to establish that Service Canada sent a letter to the Respondent at her address.

[62] The Minister's evidence about sending the valid notice consists of two versions of a correspondence log. The first version of the log suggests that the notice of auto-enrollment was sent to the Respondent's address.[36] However, a second more complete version of the log filed closer to the hearing lacks the Respondent's address in the entry for the otherwise valid notice.[37] The discrepancy, small though it may be, calls into question the reliability of the Minister's data management system.

[63] Absent more evidence, the Minister's second log leads us to doubt that Service Canada's notice was actually sent to the Respondent at her address.

[64] Like the Federal Court's decision in *Pike*, we are wary of relying on this type of documentary evidence alone to determine that Service Canada sent correspondence. In *Pike*, the Court had only a list of recipients of the special notification letter, based on social insurance numbers. The Court found this unconvincing:

> There is also no affidavit evidence from an individual with Service Canada confirming that Mr. Pike's name was on the scanned list and confirming that individuals who were on the list were sent the special notification letter, **describing the manner in which that letter was generated and sent to those individuals, or explaining why a copy of the special notification letter sent to Mr. Pike found is not found in the record.** [Emphasis added] [38]

[65] Similarly, in this appeal, the Minister has not proven on a balance of probabilities, using the correspondence logs alone, that it sent a valid notice to the Respondent at her address. One of the correspondence logs is missing the Respondent's address on the entry for the only valid notice. Like the list the Minister provided in *Pike*, there is no

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[36] See the first version of Service Canada's correspondence log, GD2-4.
[37] See the second version of Service Canada's correspondence log, AD10-5.
[38] See paragraph 60 in *Pike v Canada (Attorney General)*, 2020 FC 415.

sworn evidence (only submissions) about how the log in this case constitutes reliable evidence that Service Canada sent the notice.

[66] Without evidence (rather than argument) about the correspondence logs and how Service Canada generated and sent the letters, the Minister has not proven that it sent the critical November 2021 notice to the Respondent.

– It doesn't matter whether the Respondent actually received the notice

[67] The Respondent denied receiving any notices before December 2022 when, without her knowledge, Service Canada approved her for the OAS pension. At the hearing, the Respondent said that she probably didn't get the notices because her mail frequently goes missing.

[68] The Respondent explained that she and her husband live in the front unit of a duplex and that, for years, some of their mail has been mistakenly delivered to the rear unit. Until a few years ago, the rear unit was occupied by long-term residents who could be counted on to pass on their mail whenever it was placed in the wrong mailbox. However, in 2018, the rear unit was purchased by a landlord who has rented it out to a succession of university students. Unfortunately, they tend not to be scrupulous about returning misdirected items.

[69] The Respondent also testified that her mail sometimes was misdelivered to a house on a parallel street having the same number as hers. She said that she and the resident of the house, only one street over, occasionally traded mail. However, that came to an end when the neighbour moved, and the house was torn down.

[70] The Respondent may well experience mail delivery problems. However, they don't matter. The law only requires the Minister to show that a valid notice was sent to her; whether it was received or not is irrelevant.

[71] But that doesn't help the Minister in this case. The Minister didn't show that Service Canada mailed at least one valid notice of intent to the Respondent before her 65th birthday. This means it never properly auto-enrolled the Respondent for the OAS pension.

Conclusion

[72] The Minister didn't have to establish that the Respondent had received notice of automatic enrollment for the OAS pension. It is sufficient for the Minister to establish that Service Canada sent a valid notice to the address provided by the Respondent.

[73] The correspondence logs were inconsistent and, for that reason, raised doubt that Service Canada sent a valid notice of intent to the Respondent. Accordingly, the Minister has not shown that it complied with section 5(5) of the OASA, and it was never permitted to automatically enroll the Respondent for an OAS pension.

[74] Since the Minister never gave notice of waiving the requirement for an application, the Respondent's OAS pension never lawfully started. She does not need to cancel it.

[75] The Minister's appeal is dismissed.

Neil Nawaz
Kate Sellar
Pierre Vanderhout
Members, Appeal Division