



Citation: *GS v Minister of Employment and Social Development*, 2026 SST 81

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: G. S.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated December 22, 2025
(GP-25-1353)

Tribunal member: Neil Nawaz

Decision date: February 13, 2026

File number: AD-25-823

Decision

[1] I am refusing the Applicant permission to appeal. I see no basis for this matter to proceed.

Overview

[2] This case involves a series of misunderstandings that led to the Applicant getting a lower OAS pension than what he felt he was owed.

[3] The Applicant was born in January 1953. In January 2017, Service Canada informed him that he was slated to be automatically enrolled for the OAS pension when he turned 65.

[4] The following month, the Applicant notified Service Canada that he did not yet want to start receiving his OAS pension.¹

[5] In December 2017, the Applicant submitted an OAS pension application to Service Canada. He asked that his pension start as soon as possible.² In February 2018, the month after he turned 65, he began receiving his OAS pension.

[6] In April 2019, the Applicant asked for his OAS pension be deferred until he turned 70.³ He said that he was earning more than anticipated and now realized that he should not have taken his pension so soon. He also asked whether it was possible to repay the amounts he had received so far in a lump sum.

[7] Service Canada responded with a letter informing the Applicant that he couldn't cancel his pension because his request hadn't been made within six months of the first payment date.⁴ The letter also said that that the Applicant was free to suspend his OAS pension, although such a suspension would not be regarded a deferral for the purpose of increasing its amount.

¹ See the Applicant's declaration dated February 14, 2017, GD-16.

² See the Applicant's application for the OAS pension dated December 27, 2017, GD2-5.

³ See the Applicant's letters dated April 11, 2019, GD2-13 and GD2-14.

⁴ See Service Canada's letter dated April 23, 2019, GD2-12.

[8] In May 2019, the Applicant asked Service Canada to stop his OAS pension.⁵ He said that he would let the government know when he wanted it reinstated.

[9] Five years later, in December 2024, the Applicant submitted a second OAS application, asking his pension payments to start retroactive to January 2024.⁶ Service Canada evidently regarded this as a request to resume the Applicant's OAS pension. It resumed the pension, not as of January 2024 as the Applicant had wanted, but as of January 2025.

[10] That prompted the Applicant to submit a request for reconsideration.⁷ He asked for the resumption of his OAS payments to be backdated 11 months before his December 2024 request for the resumption of his pension. But he also asked that his OAS pension payments be adjusted retroactively as if he never asked for the payments to stop in May 2019. He added that he had asked for his pension to stop in 2019 after a Service Canada agent erroneously told him that the entire amount would be clawed back through taxes.

[11] Service Canada rejected both reconsideration requests.⁸ It affirmed its decision to resume payments in January 2025 and explained that the 11-month retroactive payment rule only applied to pensions that had been newly approved, not those that had been reinstated after being suspended. According to Service Canada, the Applicant had applied for the OAS pension only once — in December 2017. Once the pension was approved, he could not cancel it after six months had passed; he could only suspend it.

[12] The Applicant appealed Service Canada's reconsideration decisions to the Social Security Tribunal. The Tribunal's General Division held a hearing in writing and dismissed the appeal. It found nothing in the law that allowed Service Canada to reinstate the Applicant's pension retroactive to 2019. It also found that Service Canada

⁵ See the Applicant's letter dated May 1, 2019, GD2-4.

⁶ See the Applicant's application for the OAS pension dated December 9, 2024, GD2-18.

⁷ See the Applicant's reconsideration request dated December 10, 2024, GD2-22.

⁸ See Service Canada's reconsideration decision letter dated August 14, 2025, GD2-26.

had correctly put the Applicant in pay effective January 2025. It concluded that it had no authority to provide the Applicant with a remedy for whatever erroneous advice Service Canada may have given him.

[13] The Applicant requested leave, or permission, to appeal the General Division's decision.⁹ He said that, in coming to its decision, the General Division made mistakes, but he didn't offer any specific examples. The Tribunal asked him for more detail, and he responded with the following allegations:

- the General Division interpreted section 32 of the *Old Age Security Act* (OAS Act) too narrowly;
- the General Division failed to take into account bad advice that he received from a Service Canada agent; and
- the General Division erred in finding that it had no jurisdiction to grant him a remedy for Service Canada's erroneous advice.

Issues

[14] There's no automatic right to appeal a General Division decision. The Appeal Division must first give permission to appeal. It will only do so if an applicant produces new evidence or if they present an arguable case that the General Division

- proceeded in a way that was unfair;
- acted beyond its powers or refused to exercise those powers; or
- made an error of law or fact or some combination of the two.¹⁰

[15] The Applicant did not produce new evidence, so my task was to decide whether the General Division possibly made a mistake that fell into one of the permitted categories.

⁹ See the Applicant's application for leave to appeal dated December 23, 2025, AD1.

¹⁰ See section 58.1(b) of the *Department of Employment and Social Development Act*.

Analysis

[16] However much I may sympathize with the Applicant, I can't allow his appeal to go forward. That's because he hasn't met any of the grounds of appeal.

[17] I've reviewed the record, and I'm satisfied that the General Division did not misinterpret the applicable law or ignore or misunderstand the available evidence.

There's no case the General Division misinterpreted the law

[18] The law is clear. Once you've received an OAS pension for six months or more, you can't cancel it;¹¹ the only thing you can do is suspend it.¹² When the Applicant asked Service Canada to stop his pension in May 2019, he wasn't cancelling it but temporarily suspending it. He couldn't apply for the OAS pension again in December 2024, because he never officially stopped being an OAS pensioner.

[19] OAS recipients can suspend their pensions but, as the General Division rightly noted, there's nothing in the law that allows retroactive payment on reinstatement. Section 9.1(4) of the OAS Act says that a pension commences in the month following the month in which the Minister receives a request for reinstatement. That means (i) Service Canada rightly resumed the pension as of January 2025, and (ii) the Applicant could not collect any "missed" payments going back to May 2019.

[20] As mentioned, the Applicant's second OAS application was not really an application. As a result, he could not take advantage of the rule permitting up to 11 months of back payments, which is reserved for late OAS applicants.¹³

There's no case the General Division refused to exercise jurisdiction

[21] The Applicant says that Service Canada gave him bad advice about the financial implications of collecting his OAS pension while continuing to earn a significant income.

¹¹ See section 9.3(1) of the *Old Age Security Act* (OAS Act) and section 26.1(1) *Old Age Security Regulations*.

¹² See section 9.1 of the OAS Act.

¹³ See section 8(2) of the OAS Act, which applies to applicants who apply for the OAS pension a year or more after they turn 65.

That's certainly possible, but he hasn't produced any evidence to support such a claim, and this Tribunal does not have independent access to any notes or recordings, if they exist, of his discussions with Service Canada officials.

[22] The Applicant accuses the General Division of giving the benefit of the doubt to the government, but this misses a larger point. Even if there were proof of erroneous advice, the General Division would not have been able to do anything about it.

[23] That's because the OAS Act gives the Minister the discretionary power to correct any erroneous advice that it may have given the public. Section 32 of the OAS Act makes clear that it is up to the Minister, and only the Minister, to correct such a mistake. This provision is consistent with the principle requiring claimants to make their own determination of their rights and responsibilities under the law.¹⁴ It also means that this Tribunal has no jurisdiction to provide a remedy for the Minister's bad advice.

[24] In this case, the Minister has not admitted to misleading the Applicant and so far has not seen fit to take any corrective action. The courts have consistently held that administrative tribunals such as this one must follow the law as written; they do not have any discretionary powers except the ones given to them by statute. The General Division did not have the authority to force the Minister to take a discretionary action it didn't want to take. Nor did it have the authority to substitute its own discretion for the Minister's.¹⁵

[25] The Applicant argues that "appeal boards every day throughout Canada grant remedies when there are acts of omission or commission by government officials." That's true, but only if those acts of omission or commission contravene the letter of the law. That's not what happened here. In this case, the Minister is accused of, at most, making a mistake, but that's not the same thing as failing to follow the law.

¹⁴ See *Canada (Attorney General) v Hislop*, 2007 SCC 10 and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

¹⁵ See *Pincombe v Canada (Attorney General)*, [1995] F.C.J. No. 1320 (F.C.A.), among other cases.

[26] The Applicant is in effect asking the Tribunal to force the Minister to do the “right thing” and grant him retroactive benefits. Unfortunately, neither the General Division nor the Appeal Division have the authority to give him what he wants.

Conclusion

[27] I don’t see an arguable case that the General Division committed a legal or factual error or otherwise failed to exercise its jurisdiction. Ultimately, the Applicant’s submissions amount to a complaint that the General Division didn’t give him his desired result. However, that’s not enough to advance his appeal.

[28] Permission to appeal is refused.



Member, Appeal Division