

[TRANSLATION]

Citation: *GF v Minister of Employment and Social Development*, 2025 SST 1419

**Social Security Tribunal of Canada**  
**General Division – Income Security Section**

## Decision

**Appellant:** G. F.

**Respondent:** Minister of Employment and Social Development

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated February 7, 2024  
(issued by Service Canada)

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**Tribunal member:** Antoinette Cardillo

**Type of hearing:** In person

**Hearing date:** May 2, 2025

**Hearing participants:** Appellant  
Respondent's representative

**Decision date:** June 19, 2025

**File number:** GP-24-785

## Decision

[1] The appeal is dismissed.

[2] The Appellant, G. F., isn't eligible for more than 11 months of retroactive Guaranteed Income Supplement (GIS) benefits.

[3] This decision explains why I am dismissing the appeal.

## Overview

[4] The Minister of Employment and Social Development (Minister) started paying the Appellant an Old Age Security (OAS) pension in July 2013.<sup>1</sup>

[5] A person who receives an OAS pension is also eligible for the GIS if they meet certain requirements. For example, their income needs to be below a certain level. And they have to stay in Canada. GIS benefits also depend on a person's civil status.

[6] The Minister started paying the Appellant the GIS in April 2021.<sup>2</sup>

[7] The Appellant claimed GIS benefits from July 2013 to March 2021. He said that he applied for the GIS when he applied for the OAS pension in 2014 by checking the appropriate box.

[8] The Minister said that, to be eligible for the GIS, you had to apply by completing the initial GIS application form (ISP-3025) and file tax returns before the deadline so that the GIS would be automatically renewed each year.<sup>3</sup> The Minister also said that the Appellant's file shows that he turned 65 on June 28, 2013, and was eligible for the OAS pension as of July 2013. When it received his OAS application, the Minister considered the fact that he answered "yes" to question 11 on his pension application to get the GIS. For this purpose, forms were sent to him in 2014—namely, ISP-3025-12—

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<sup>1</sup> The Minister of Employment and Social Development (Minister) manages the Old Age Security (OAS) programs for the Government of Canada. See the application at GD2-3.

<sup>2</sup> See GD2-18.

<sup>3</sup> See GD2-36.

for the initial GIS application for the period from July 2013 to June 2014, and IS-3026-13, for the renewal application for the period from July 2014 to June 2015. Since these forms were never returned, the Minister was unable to pay the Appellant GIS benefits. The Minister received an initial GIS application on March 10, 2022, and it was processed on October 6, 2022. Benefits, with the 11 months of possible retroactive benefits, were paid to the Appellant.

[9] The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

## **Reasons for my decision**

[10] I find that the Appellant isn't eligible for more than 11 months of retroactive GIS benefits. He is eligible for those benefits as of April 2021.

[11] Here is my reasoning.

## **Test for GIS payments**

[12] The *Old Age Security Act* (OAS Act) says that no supplement can be paid for any month that is more than 11 months before the month the application is received, waived, or deemed to have been made.<sup>4</sup>

[13] The OAS Act also says that the GIS can only be paid if the applicant applies and payment of the GIS has been approved.<sup>5</sup>

## **The parties' position**

[14] The Appellant says that the OAS pension application form he completed in 2014 doesn't say that an application has to be made to receive the GIS or that a form will follow by mail.<sup>6</sup> According to him, checking the box on the OAS pension application form indicating that he wanted to receive the GIS was the same thing as an application.

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<sup>4</sup> See section 11(7) of the *Old Age Security Act* (OAS Act).

<sup>5</sup> See section 11(2) of the OAS Act.

<sup>6</sup> See the application to appeal at GD1-1.

So, the 11-month retroactivity doesn't apply because he applied for the GIS in 2014 at the same time as his pension application.

[15] The Appellant also said that he never received the Minister's forms. There are some postal items he didn't receive despite living at the same address between 1970 and 2021 and making mail redirection requests and renting a postal locker to make sure he got his mail after he moved.

[16] He considers that there was no follow-up from the Minister as indicated on his June 9, 2014, pension application.

[17] The Minister said that when it approved his OAS pension application, the Minister considered that he had answered "yes" to question 11 to get the GIS. Because of this, it sent him two GIS application forms on July 28, 2014, but he didn't return them. The Minister paid him the maximum number of months since it received his first GIS application in 2022.

[18] The Minister also said that the Appellant never came forward or sent in documents or GIS applications between July 28, 2014 (when his OAS pension application was approved) and when it received his March 10, 2022, GIS application. He didn't come forward until July 7, 2021, when he called Service Canada to make a change to his direct deposit.

[19] The Minister added that the simplified GIS form it sent the Appellant in March 2021 wasn't received until March 10, 2022, while the second, simplified GIS form sent in March 2022 (to the same address as the first form) was received on May 2, 2022.<sup>7</sup> In addition, the Minister isn't required by law to routinely send a GIS application to potential eligible applicants. It is the applicant's responsibility to apply for the GIS.

[20] The Appellant explained the delay concerning the forms sent by the Minister in 2021 by saying that, after moving that same year, he hadn't received the mail.

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<sup>7</sup> See GD2-7 and GD2-9.

## Analysis

[21] The law clearly states that a GIS application has to be made, received, and approved before the GIS is payable.<sup>8</sup>

[22] Also, the *Old Age Security Regulations* (Regulations) say that if the Minister requires it, the application for benefits must be made on an application form.<sup>9</sup> The Regulations also say that an application is deemed to have been made only if an application form is completed by or on behalf of the applicant and received by the Minister.<sup>10</sup> In addition, an “application form” means the application form required by the Minister.<sup>11</sup>

[23] The Act also clearly states that no supplement can be paid for any month that is more than 11 months before the month the application is received.<sup>12</sup>

[24] In the circumstances, the Appellant’s first GIS application was received by the Minister on March 10, 2022. This means that benefits can’t start until April 2021.

[25] I don’t have the authority to depart from the provisions of the OAS Act and Regulations, and I can’t make decisions based on fairness, compassion, or extenuating circumstances. I have to interpret and apply the provisions in the manner set out in the OAS Act and Regulations.

[26] So, I can’t accept what the Appellant says.

[27] Even though the future pensioner is asked whether they want to apply for a GIS as part of their OAS pension application, and to check the “yes” box, this isn’t the GIS application itself. The application form for the OAS pension is entitled “Application for the Old Age Security Pension.” The GIS application forms are labelled differently. There is a process to follow. A GIS application has to be made in accordance with the

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<sup>8</sup> See section 11(2) of the OAS Act.

<sup>9</sup> See section 3(1) of the *Old Age Security Regulations* (Regulations).

<sup>10</sup> See section 3(2) of the Regulations.

<sup>11</sup> See section 2(1) of the Regulations for the definition of “application form.”

<sup>12</sup> See section 11(7) of the OAS Act.

OAS Act and its Regulations. The only exception is when a person meets the incapacity test set out in the OAS Act or the Minister waives the requirement for an applicant to apply.<sup>13</sup>

[28] Also, the Minister sent the GIS application forms in July 2014. I understand that it is unfortunate that the Appellant didn't receive them, but the Minister didn't neglect to send them.<sup>14</sup> There is no requirement for the Minister to follow up. And I can't consider the Appellant's problems with the postal service. As the Minister's representative explained at the hearing, once the GIS application forms are filled out and received by the Minister, the process to get the GIS starts. This wasn't possible in the Appellant's case because the Minister didn't receive these application forms in 2014.

[29] I also understand that the Appellant isn't satisfied with the wording or instructions concerning the GIS on the OAS pension application. But, as noted, I have to interpret and apply the provisions in the manner set out in the OAS Act and Regulations. What is stated on the OAS pension application doesn't take precedence over the OAS Act. There is a process to follow under this law and its Regulations. The Minister sent two GIS application forms in 2014 to start this process, but unfortunately the Appellant didn't receive them.

## **Conclusion**

[30] As a result, the law says that the Appellant isn't eligible for more than 11 months of retroactive GIS benefits. He is eligible to receive benefits as of April 2021.

[31] So, the appeal is dismissed.

Antoinette Cardillo  
Member, General Division – Income Security Section

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<sup>13</sup> See sections 28.1 and 11(3.1) of the OAS Act.

<sup>14</sup> See GD5-13.