



Citation: *JO v Minister of Employment and Social Development*, 2025 SST 1458

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

**Decision**

**Appellant:** J. O.

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

**Minister’s representative:** Neil Wood

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated January 10, 2025 (issued  
by Service Canada)

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**Tribunal member:** Carol Wilton

**Type of hearing:** In person

**Hearing date:** October 8, 2025

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

**Decision date:** October 23, 2025

**File number:** GP-25-804

## Decision

[1] The appeal is dismissed.

[2] The Appellant, J. O., isn't eligible for greater back payments of her Guaranteed Income Supplement (GIS) benefit.

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

## Overview

[4] The Appellant was born in June 1957.<sup>1</sup> In June 2021, she was automatically enrolled for the Old Age Security (OAS) pension. This means that she didn't need to apply for the pension. She was approved for a full pension starting in July 2022. This was the month after she turned 65. She started receiving the OAS at that time.

[5] In June 2021, the Minister also considered whether it could automatically enrol the Appellant for the GIS benefit. But the information in the file was incomplete. The Appellant hadn't filed her 2021 income tax return. So, the Minister couldn't auto-enrol her for the GIS.<sup>2</sup>

[6] In November 2023, the Minister received the Appellant's application for the GIS.<sup>3</sup> In January 2024, the Minister approved the Appellant's application retroactive to December 2022, 11 months before it received the application.

[7] The Appellant asked for a reconsideration of that decision. She thought that she should get GIS payments from the time her OAS payments started. She requested back payments from July to November 2022 inclusive.<sup>4</sup>

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<sup>1</sup> See GD2-11.

<sup>2</sup> See section 11(3.1) of the OAS Act.

<sup>3</sup> See GD2-26.

<sup>4</sup> See GD2-34-36.

[8] The Minister's reconsideration decision said the Appellant isn't entitled to further back payments. The Appellant appealed the reconsideration decision to the Social Security Tribunal's General Division.

## **What the Appellant must prove**

[9] For the Appellant to succeed, she must prove that she is entitled to payment of the GIS from July to November 2022 inclusive.

## **Matters I have to consider first**

[10] The Appellant's appeal to the Tribunal was late. She was granted an extension of time for reasons explained in my correspondence of June 13, 2025.

## **Reasons for my decision**

### **The Appellant isn't entitled to greater back payments**

[11] The law is clear that an applicant isn't entitled to payment of the GIS more than 11 months before the month the application is received.<sup>5</sup>

[12] When, as in this case, the Minister doesn't have enough information to auto-enrol an applicant, the date of application determines the start date of GIS back payments. An applicant can get payments only as far back as 11 months before the date of application.<sup>6</sup>

[13] The Appellant isn't entitled to more back payments than she has received.

[14] The Appellant had no quarrel with the Canada Revenue Agency's assessment of her income. She also confirmed that her marital status hadn't changed.

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<sup>5</sup> Except as stated in footnote 2 above.

<sup>6</sup> See Sections 11(3.1) and 11(7)(a) of the *OAS Act*. The Minister may also use the date the application was deemed to have been made, in which case the requirement for an application has been waived. This applies when there's enough information about the applicant's income for the previous year for the Minister to auto-enrol an applicant for the GIS. In the present case, the Minister didn't have that information.

**I have no authority to remedy misleading advice**

[15] If erroneous advice or administrative error on the part of a Service Canada employee leads to an applicant losing part of a benefit to which they are entitled, the Minister may take action to put the matter right.<sup>7</sup>

[16] The Minister's submissions stated that the Appellant may have received erroneous advice from agents of Service Canada about when retroactive payments start. If so, the Minister said, the advice didn't affect her date of application. The Minister stated that there is no remedy when its agents made a mistake that doesn't result in the loss of a benefit.

[17] I have no authority to make a decision about erroneous advice or administrative error under section 32 of the *OAS Act*. Even if Service Canada employees provided misleading information to the Appellant, there's nothing I can do about it.

[18] The Tribunal is created by legislation. So, it only has the powers given to it by its governing statute. The *OAS Act* says the Minister may take remedial action (make things right) if it is satisfied that an applicant was denied a benefit because of erroneous advice or administrative error. But the Minister doesn't have to fix its mistake if it doesn't think it is justified. Case law says that tribunals like this one can't force the Minister to revisit or reverse a decision it has taken voluntarily.<sup>8</sup>

[19] In this case, the Minister has decided that any erroneous advice didn't result in the loss of a benefit. There's nothing I can do to make the Minister change its mind.<sup>9</sup>

**I have no authority to remedy financial hardship**

[20] The Appellant is in dire financial circumstances. She has expenses beyond her income. In addition, she is her mother's caregiver.

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<sup>7</sup> See section 32 of the *OAS Act*.

<sup>8</sup> See *Canada (Minister of Human Resources Development) v. Tucker*, 2003 FCA 278.

<sup>9</sup> See *DT v Minister of Employment and Social Development*, 2024 SST 170. This is a decision of the Appeal Division of this Tribunal. It isn't binding on me, but I find it persuasive.

[21] I am sympathetic to the Appellant's circumstances. However, I can't make decisions based on compassion, financial hardship, or extenuating circumstances. I must interpret and apply the provisions as they are set out in the OAS Act.<sup>10</sup> I can't ignore the law and I can't change it. Only Parliament has the power to change the law.

## **Conclusion**

[22] I find that the Appellant isn't eligible for greater back payments of her GIS benefit.

[23] This means the appeal is dismissed.

Carol Wilton  
Member, General Division – Income Security Section

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<sup>10</sup> See *Langlois v Canada (Attorney General)*, 2018 FC 1108 at para. 12.