

Federal Court of Appeal



Cour d'appel fédérale

Date: 20231122

Docket: A-137-23

Citation: 2023 FCA 230

**CORAM: WOODS J.A.
MACTAVISH J.A.
BIRINGER J.A.**

BETWEEN:

KRISTINE HUEBNER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Winnipeg, Manitoba, on November 22, 2023.

Judgment delivered from the Bench at Winnipeg, Manitoba, on November 22, 2023.

REASONS FOR JUDGMENT OF THE COURT BY:

WOODS J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Winnipeg, Manitoba, on November 22, 2023).

WOODS J.A.

[1] The applicant, Kristine Huebner, filed an application in this Court for judicial review of a decision of the Appeal Division of the Social Security Tribunal. The Appeal Division determined that the applicant was not entitled to a survivor's pension under the *Canada Pension Plan*, R.S.C. 1985, c. C-8.

[2] At the beginning of the hearing, the Court dealt with a motion filed by the applicant a few days before the hearing which sought to introduce new evidence in support of her application.

The motion was dismissed for reasons to follow.

[3] These are the reasons on the motion. The general rule is that new evidence may not be introduced on an application for judicial review. There are exceptions, but they are very limited. In this case, the motion was dismissed because the new evidence does not come within the scope of any recognized exceptions.

[4] We now turn to the main issue. The *Canada Pension Plan* provides for a survivor's pension to be paid to the survivor of a deceased contributor. The term "survivor" is defined in the statute in relation to a deceased contributor. The applicant submits that she is a survivor in relation to Patrick Carlson. The Appeal Division concluded that the applicant was not a survivor, as defined, because she had ceased to be in a common-law relationship with Mr. Carlson in the years immediately prior to his death.

[5] It is not the role of this Court to redetermine the question of the applicant's entitlement to a survivor's pension but rather to apply the reasonableness standard of review to the Appeal Division's decision in accordance with well-established principles (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653). These principles require that this Court give deference to the decision of the Appeal Division, and only intervene if the decision is unreasonable. The decision does not have to be perfect. In our view, the

decision satisfies this standard of review. In particular, the decision amply demonstrates the requisite degree of transparency, justification and intelligibility.

[6] The applicant suggests that the Appeal Division failed to properly take into account certain of the evidence that supported her position. We disagree. The Appeal Division's reasons show that it carefully considered the entirety of the evidence and reasonably concluded that the applicant and Mr. Carlson were not in a common-law relationship in the years immediately prior to his death.

[7] Therefore, we have concluded that there is no reason to intervene. The application for judicial review will be dismissed without costs.

“Judith Woods”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-137-23

STYLE OF CAUSE: KRISTINE HUEBNER v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: WINNIPEG, MANITOBA

DATE OF HEARING: NOVEMBER 22, 2023

**REASONS FOR JUDGMENT OF THE COURT
BY:** WOODS J.A.
MACTAVISH J.A.
BIRINGER J.A.

DELIVERED FROM THE BENCH BY: WOODS J.A.

APPEARANCES:

Kristine Huebner ON HER OWN BEHALF

Ian McRobbie FOR THE RESPONDENT

SOLICITORS OF RECORD:

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