



Citation: *JM v Minister of Employment and Social Development*, 2025 SST 40

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant: J. M.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated June 21, 2024
(GP-24-384)

Tribunal member: Kate Sellar

Decision date: **January 17, 2025**

File number: AD-25-30

Decision

[1] The application for permission to appeal wasn't late. I'm refusing to give the Claimant, J. M., leave (permission) to appeal. The appeal will not proceed. These are the reasons for my decision.

Overview

[2] The Claimant's spouse, M. M., died on April 26, 2023. The Claimant applied for the Canada Pension Plan (CPP) death benefit in May 2023. The Minister of Employment and Social Development (Minister) refused his application initially and on reconsideration. He appealed to this Tribunal.

[3] The General Division dismissed the Claimant's appeal. The General Division found that the Claimant wasn't entitled to the CPP death benefit because his late spouse didn't have sufficient contributions to the CPP.

Issues

[4] The issues in this appeal are:

- a) Was the application to the Appeal Division late?
- b) Is there an arguable case that the General Division made any error that would justify granting the Claimant's permission to appeal?
- c) Does the application set out evidence that wasn't presented to the General Division?

Analysis

The Claimant's application to the Appeal Division wasn't late

[5] Claimants have 90 days from when the General Division communicates a CPP decision to request permission to appeal to the Appeal Division.¹ The General Division

¹ See section 57(1)(b) in the *Department of Employment and Social Development Act* (Act).

decision in this matter is dated June 21, 2024. The Appeal Division received the Claimant's request for permission to appeal on January 13, 2025.

[6] However, the General Division didn't send the decision to the Claimant until October 28, 2024 by courier. The General Division apologized for the delay.

[7] I'm satisfied that the Claimant didn't receive the General Division decision until it was couriered at the end of October 2024. Accordingly, the Claimant's application wasn't late.

I'm not giving the Claimant permission to appeal

[8] I can give the Claimant permission to appeal if the application raises an arguable case that the General Division:

- didn't follow a fair process;
- acted beyond its powers or refused to exercise those powers;
- made an error of law;
- made an error of fact; or
- made an error applying the law to the facts.²

[9] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.³

[10] Since the Claimant hasn't raised an arguable case and hasn't set out new evidence, I must refuse permission to appeal.

² See section 58.1(a) and (b) in the *Department of Employment and Social Development Act* (Act).

³ See section 58.1(c) in the Act.

There's no arguable case that the General Division made any error that would justify granting permission to appeal.

– The Claimant makes arguments about why he should receive the death benefit

[11] The Claimant argues the following:

- The General Division's decision is unfair because the Claimant wasn't aware of the law requiring 10 years of contributions in order to qualify for the death benefit.
- The General Division's decision and the contribution requirements aren't fair to Canadian citizens (and that by contrast there are "people coming into the country and contributing nothing and they get free money").
- The General Division's decision isn't fair because the Claimant and his wife contributed to the country in other ways, including through paying taxes and through sales tax on items like cigarettes.⁴

– The General Division described the minimum requirements for receiving the death benefit

[12] The General Division explained what the CPP says about eligibility for the death benefit.⁵ The CPP says that for the Claimant to be eligible for the death benefit, the contributor (the Claimant's late spouse) needed to meet the minimum qualifying period (MQP). For the death benefit, meeting the MQP means only that the contributor either made contributions for at least one third of the total number of years in the contributory period, or made at least 10 years of contributions.⁶

[13] The General Division explained that the contributory period for the Claimant's late spouse was from June 1970 to October 2013. And after dropping out any months during which she received the family allowance, her contributory period was reduced to 35 years. So, the Claimant's late spouse needed 10 years of contributions to the CPP in

⁴ See AD1-3.

⁵ See paragraphs 8 to 16 in the General Division decision.

⁶ See sections 44(1)(c) and 44(3)(a) and (b) in the *Canada Pension Plan* (CPP).

order for the Claimant to be eligible for the death benefit. The Claimant's late spouse had contributions in only 7 years, not 10. Accordingly, the General Division found that there was no entitlement to the death benefit.

– **The Claimant hasn't raised an arguable case for an error by the General Division about entitlement to the death benefit**

[14] The Claimant hasn't provided any information to suggest that the General Division made an error in the calculation of his late spouse's contributory period. The Claimant also hasn't raised any concern about the number of years within that period that the General Division found his late spouse contributed to the CPP.

[15] The Claimant hasn't provided any information to suggest that the General Division misunderstood or misapplied the eligibility rules for the CPP death benefit.

[16] The Claimant has provided reasons why he thinks it would be fairer to receive the death benefit even though the rules about contributions don't allow it. There's no support for the argument that eligibility for the death benefit can change if the Claimant didn't know what the law was in advance. There's no support for the idea that eligibility for the death benefit could be established through citizenship, or through any assessment of general contributions to Canadian society (such as paying tax). The Tribunal doesn't have the authority to provide the death benefit based on any criteria the Claimant has proposed here. Those criteria aren't outlined in the CPP.

[17] Accordingly, the Claimant hasn't raised an arguable case for an error about his eligibility for the death benefit. There are reasons that the Claimant believes he should be entitled to the benefit. He's entitled to hold those beliefs, but I see no arguable case that these beliefs are reflected in the law the Tribunal must follow.

– **The Claimant hasn't provided any new evidence**

[18] The Claimant hasn't provided any evidence that wasn't already presented to the General Division, so new evidence also cannot form the basis for granting permission to appeal.

[19] I've reviewed the written record.⁷ I see no other evidence that the General Division may have overlooked or misinterpreted that could have an impact on the outcome for the Claimant.

Conclusion

[20] The Claimant's application wasn't late, so he doesn't need an extension of time. However, I've refused to give the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division

⁷ For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.