



Citation: *SS v Minister of Employment and Social Development*, 2025 SST 111

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: S. S.

Representative: P. S.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated August 26, 2024 (issued
by Service Canada)

Tribunal member: James Beaton

Type of hearing: Teleconference

Hearing date: February 6, 2025

Hearing participant: Appellant's representative

Decision date: February 10, 2025

File number: GP-24-2000

Decision

[1] The appeal is dismissed.

[2] The Appellant, S. S., isn't eligible for a Canada Pension Plan (CPP) death benefit or survivor's pension in respect of the deceased contributor (Contributor), H. S. This decision explains why I am dismissing the appeal.

Overview

[3] The Appellant was married to the Contributor. The Contributor was born on March 25, 1949, and passed away on October 24, 2023.¹ The Appellant applied for a death benefit and a survivor's pension in respect of the Contributor. The Minister of Employment and Social Development refused the Appellant's application. The Appellant appealed the Minister's decision to the Social Security Tribunal's General Division.

What I have to decide

[4] I have to decide if the Appellant is eligible for a death benefit or a survivor's pension.

Reasons for my decision

[5] The Appellant isn't eligible for a death benefit or a survivor's pension.

[6] A death benefit and a survivor's pension may only be paid if the Contributor contributed to the CPP for enough years.² The Contributor can meet this requirement in one of two ways.³ Option 1 is to contribute to the CPP for at least 10 years. Option 2 is to contribute to the CPP for at least 1/3 of the years included either wholly or partly in her **contributory period**.

¹ See GD2-4.

² See section 44(1)(c) of the *Canada Pension Plan*.

³ See section 44(3) of the *Canada Pension Plan*.

[7] To calculate the number of years in the Contributor's contributory period, I need to figure out when her contributory period began, when it ended, and whether any months in between can be excluded.

– **When did the Contributor's contributory period begin?**

[8] Contrary to the Appellant's argument, the contributory period doesn't begin with the first year that a person contributes to the CPP. It begins with the **latest** of these dates:⁴

- a) January 1966 (when the CPP was created)
- b) the month after the person turned 18

[9] The Contributor turned 18 in March 1967. The month after that was April 1967. The latest date is April 1967.

[10] So the Contributor's contributory period began April 1967. This is true even though the Appellant wasn't living in Canada when she turned 18.

– **When did the Contributor's contributory period end?**

[11] A person's contributory period ends with the **earliest** of these dates:⁵

- a) the last month of the year in which the person turned 65
- b) the month the person died
- c) the month before the person started getting a retirement pension

[12] The Contributor turned 65 in March 2014; December 2014 was the last month of that year. The Contributor died in October 2023. She started getting a retirement pension in December 2013; the month before that was November 2013.⁶ The earliest of these dates is November 2013.

[13] So the Contributor's contributory period ended November 2013.

⁴ See section 49 of the *Canada Pension Plan*. Section 2(2) explains how to calculate a person's age.

⁵ See sections 44(3)(a) and 49(b) of the *Canada Pension Plan*.

⁶ See GD2-33.

– **Can any months be excluded from the Contributor’s contributory period?**

[14] Any months when a person was a family allowance recipient can be excluded from their contributory period.⁷ Generally, a family allowance is payable to a person who is caring for a child under 7 years old—not 18, as the Appellant argues.⁸

[15] The Contributor was a family allowance recipient from December 1978 to June 1990.⁹ Those months are excluded from her contributory period.

[16] The Appellant thinks years should also be excluded from the Contributor’s contributory period on the basis that Canada doesn’t have a social security agreement with the Fiji Islands, where the Contributor was born. But there is no legal basis for the Appellant’s argument. The purpose of a social security agreement is to recognize years of contributions that a person might have made under another country’s social security legislation. The absence of an agreement doesn’t allow me to ignore years that fall within the contributory period.

– **What was the Contributor’s contributory period?**

[17] By putting all of these rules together, I find that the Contributor’s contributory period was from April 1967 to November 1978, and from July 1990 to November 2013. Her contributory period includes 36 whole or partial years. One-third of 36 years is 12 years.

– **The Contributor didn’t make enough years of CPP contributions**

[18] Under Option 1, the Contributor needed to contribute to the CPP for at least 10 years. Under Option 2, she needed to contribute for at least 12 years. She only made five years of contributions: 1991, 1993, 1994, 1995, and 2008.¹⁰ So the Appellant isn’t eligible for a death benefit or a survivor’s pension in respect of the Contributor.

⁷ See section 49(d) of the *Canada Pension Plan*.

⁸ A “family allowance recipient” is defined by section 42(1) of the *Canada Pension Plan* and section 77(1) of the *Canada Pension Plan Regulations*.

⁹ See GD2-27.

¹⁰ See GD2-26.

[19] The Appellant says the Contributor helped him with his job some years, but she wasn't paid for that work, so she didn't contribute to the CPP in those years. He thinks I should count those years as years of valid CPP contributions. He also says the Contributor made non-monetary contributions to Canada and therefore to the CPP. But the law doesn't allow me to make up for a lack of contributions by considering unpaid work or other contributions to society.¹¹

Other matters

The Appellant had a fair hearing

[20] I believe that the Appellant had a fair hearing even though he didn't attend the hearing. He had a fair opportunity to understand the issues in his appeal and to respond to them. To explain why, I will describe what happened before and at the hearing.

– What happened before the hearing

[21] In a letter dated December 9, 2024, I explained how the law applies to the issue in the Appellant's appeal. The letter said, "You can file documents [by January 14, 2025] to explain why you think the Tribunal should allow your appeal. You can also tell the Tribunal member at the hearing why you think your appeal should be allowed."¹²

[22] On December 12, 2024, the Tribunal sent the Appellant a notice of hearing. The hearing was scheduled for January 20, 2025, at 9:00 Pacific Time (the Appellant's time zone).¹³

[23] On December 20, 2024, the Appellant's representative (his daughter) asked the Tribunal to reschedule the hearing to 4:00 Pacific Time on a Tuesday or Thursday as it "works out better for both our attendance."¹⁴ The Appellant met the requirements to

¹¹ See *Miter v Canada (Attorney General)*, 2017 FC 262.

¹² See GD3.

¹³ See GD0.

¹⁴ See GD5.

reschedule under section 43(1) of the *Social Security Tribunal Rules of Procedure* (Rules):

- It was the Appellant's first rescheduling request.
- It was made at least five business days before the hearing.
- And he was available within two weeks of the original hearing date.

[24] On December 23, 2024, the Tribunal rescheduled the hearing to Thursday, January 23, 2025, at 4:00 Pacific Time.¹⁵

[25] A few hours before the hearing on January 23, the representative informed the Tribunal by phone that the Appellant would not be able to attend the hearing due to a medical appointment. The representative could not attend either because she had to take the Appellant to the appointment. They found out about the appointment on January 22. They asked to reschedule the hearing again.

[26] Normally, a request to reschedule must be filed with the Tribunal (that is, made in writing).¹⁶ But I can decide that a party doesn't need to follow a rule if it is in the interest of justice. I accepted the request by phone because it was in the interest of justice. I had enough information to evaluate the request.

[27] The Appellant didn't meet the requirements to reschedule under section 43(1) of the Rules. It wasn't his first request, and he didn't make it at least five business days before the hearing. That meant I could only reschedule the hearing if it was necessary for a fair hearing. This requirement comes from section 43(3) of the Rules.

[28] I decided that it was necessary to reschedule the hearing to ensure that the hearing was fair. The Appellant wanted to participate in a teleconference hearing. He could not do so at the scheduled time because of a medical appointment. His representative could not attend on his behalf either, for the same reason. The Appellant and his representative had little notice of the medical appointment.

¹⁵ See GD0A.

¹⁶ See section 43(2) of the Rules.

[29] That same day, I rescheduled the hearing to February 6, 2025, at 4:00 Pacific Time. The representative specifically requested that date and time. But the notice of hearing incorrectly gave February 7 as the new hearing date.¹⁷

[30] On January 31, 2025, the Tribunal phoned the representative to notify her of the mistake. She said they were still available for a hearing on February 6. The Tribunal sent her a new notice of hearing with the correct date.¹⁸

[31] Both the incorrect and the correct notice said, “The hearing will be rescheduled to the date and time that was specifically requested by the Appellant’s representative. It is therefore expected that the hearing will go ahead at the rescheduled date and time.”

[32] On February 3, 2025, the Tribunal phoned the representative to remind her of the hearing. She said she and the Appellant would both attend on February 6 at 4:00 Pacific Time.

– **What happened at the hearing**

[33] At the beginning of the hearing, the representative advised that the Appellant could not be at the hearing because he was undergoing dialysis. I said we could still proceed if she was ready, since she was on file as the Appellant’s representative. She agreed, and we proceeded with the hearing.

[34] At the end of the hearing, after I had explained why I had to dismiss the appeal, the representative advised that the Appellant might appeal my decision so that he has a chance to make his case verbally. I explained that the Appellant may appeal to the Tribunal’s Appeal Division if he wishes. The Appeal Division will decide whether to grant permission to appeal. If it grants permission, his appeal will go forward. If it doesn’t grant permission, then his appeal won’t go forward. The Appeal Division must follow the law just like the General Division.

¹⁷ See GDB.

¹⁸ See GDBR.

– **Why I didn't reschedule the hearing for a third time**

[35] I didn't reschedule the hearing for a third time for two reasons.

[36] First, the representative didn't clearly ask to reschedule. It was only at the end of the hearing that she said the Appellant might appeal so that he could talk to a Tribunal member directly.

[37] Second, even if the representative had asked to reschedule, I could only have done so if it was necessary for a fair hearing under section 43(3) of the Rules. Rescheduling wasn't necessary. The hearing was fair even without the Appellant there, for these reasons:

- I explained in a letter how the law applies to his appeal, so he knew the issues in his appeal.
- He was given time to tell the Tribunal in writing why he thought his appeal should be allowed.
- He was given three opportunities to tell the Tribunal verbally why he thought his appeal should be allowed. Two of the hearing dates and times were selected according to his and his representative's stated availability.
- He was told to expect the hearing to go ahead on February 6.
- His representative attended the hearing on his behalf. It is a representative's responsibility to present the position of the party whom they represent.¹⁹ I explained to the representative how the law applies to the Appellant's appeal. The representative asked questions, which I answered.
- I had all of the information that I needed in order to decide the appeal.

¹⁹ See section 14(1)(a) of the Rules.

- The Appellant would still receive a written decision (this decision) to explain why I had to dismiss his appeal.

Conclusion

[38] I find that the Appellant isn't eligible for a death benefit or a survivor's pension.

[39] This means the appeal is dismissed.

James Beaton
Member, General Division – Income Security Section