



Citation: *DP v Minister of Employment and Social Development*, 2025 SST 140

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: D. P.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated September 11, 2024
(issued by Service Canada)

Tribunal member: Brianne Shalland-Bennett

Type of hearing: Videoconference

Hearing date: February 5, 2025

Hearing participants: Appellant
Appellant's support person
Respondent's representative

Decision date: February 19, 2025

File number: GP-24-1986

Decision

[1] The appeal is dismissed.

[2] The Appellant, D. P., isn't eligible for a Canada Pension Plan (CPP) death benefit. This decision explains why I am dismissing the appeal.

Overview

[3] C. P. passed away in January 2024. The Appellant applied for a death benefit in March 2024. The Minister of Employment and Social Development (Minister) denied his application. It said C. P. didn't make enough years of contributions to the CPP in her contributory period to allow the Appellant to qualify for the death benefit.

[4] The Appellant disagrees. He appealed the Minister's decision to the Social Security Tribunal (Tribunal). He says:

- C. P. is being unfairly penalized due to the program's inception date.
- C. P. made substantial contributions before the CPP was started.
- The Tribunal should use its discretion to prorate C. P.'s contributions.
- The Tribunal should consider fairness, flexibility, and humanitarian and compassionate grounds when deciding this appeal.

[5] The Minister says it can't approve the Appellant's application for a death benefit. C. P. needed nine years of contributions, but she only had seven. It can't use C. P.'s contributions before the start date of the CPP to help the Appellant qualify for the death. It can't change what the law says.¹

What the Appellant must prove

[6] To succeed in this appeal, the Appellant must prove C. P. made enough contributions to qualify her estate for the death benefit.

¹ See the Minister's submissions at GD4.

[7] The law says the death benefit can only be paid if a contributor made valid contributions to the CPP for not less than the minimum qualifying period.²

[8] The CPP is a contributory program. The time during which a person can contribute to the CPP is known as a contributory period.

[9] A person's contributory period starts the later of January 1, 1966 (when the CPP began) or the month after the person's 18th birthday.³

[10] A person's contributory period ends the **earliest** of one of the options below:⁴

- the last month of the year in which the contributor turned 65
- the month the contributor dies
- the month before the contributor started getting a CPP retirement pension

[11] To meet the minimum qualifying period for a death benefit, a contributor must have made contributions during their contributory period for:⁵

- at least 3 years and for at least one third of the total number of years included either wholly or partly within their contributory period or
- at least 10 years

Reasons for my decision

[12] The Appellant isn't eligible for a CPP death benefit.

[13] C. P. didn't have enough years of contributions during her contributory period. I can't use contributions before the CPP was created. I can't prorate her contributions. I can't make my decision for humanitarian or compassionate reasons.

[14] I explain the reasons for my decision below.

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

³ See subsection 2(2) and section 49 of the *Canada Pension Plan*.

⁴ See subsections 2(2), 44(3)(a), and 49(b) of the *Canada Pension Plan*.

⁵ See subsection 44(3) of the *Canada Pension Plan*.

– **C. P.’s contributory period**

[15] C. P.’s contributory period started in January 1996. She was born in June 1925. She turned 18 in June 1943. The month after that was July 1943. The CPP began in January 1966. The latest of these dates is January 1966.

[16] C. P.’s contributory period ended in May 1990. She turned 65 in June 1990. The last month of that year was December 1990. She died in January 2024. She started getting her retirement pension in June 1990. One month before then is May 1990. May 1990 is the earliest of these dates.

[17] C. P.’s contributory period totals 25 calendar years. The CPP calculates contributory periods on a full-year basis. 1990 is counted as a full year.

[18] The Appellant wants me to use contributions C. P. made before the CPP existed. He argues C. P. should not be penalized. She had contributions that disappeared based on the CPP’s inception. This is something that should be taken into consideration. He says I have to consider the fairness of doing so.

[19] I can’t consider contributions before January 1966. The law explains when a person’s contributory period begins and ends. It doesn’t say I can use any period before January 1966. It explicitly says a person’s contributory period starts the later of January 1, 1966 (when the CPP began) or the month after the person’s 18th birthday.⁶

[20] The Tribunal is created by legislation and, as such, it has only the powers granted to it by its governing statute. I can only interpret and apply the law as it is explained in the CPP. I can’t make decisions outside of what the law says.

– **C. P. didn’t make enough contributions in her contributory period**

[21] C. P. needed nine years of CPP contributions. As I mentioned, her contributory period totals 25 years. The law says she needed to make valid contributions for at least

⁶ See subsection 2(2) and section 49 of the *Canada Pension Plan*.

a third of those years. One-third is 8.3 years. Partial years are rounded up. So, she needed valid contributions for nine years.⁷

[22] C. P. made seven years of contributions in her contributory period. These contributions were made in 1966, 1967, 1968, 1969, 1970, 1971, and 1972.⁸

[23] Seven years of contributions is less than the nine-year requirement C. P. needed to have made in order for the Appellant to qualify for the death benefit.

– **I can't prorate C. P.'s contributions**

[24] The Appellant asked the Tribunal to clarify the legislation relating to proration. He questioned if the legislation explicitly stated that the death benefit could not be prorated. He said that she put in seven years of contributions, which is more than 75% of what is required. He says C. P.'s circumstances are exceptional and unique and that I should consider proration in the spirit of equity and fairness. He asked me to use my discretion to prorate C. P.'s contributions.

[25] I can't prorate C. P.'s contributions. The law speaks of proration as it relates to **disability benefits**. But even in this context, proration is about **qualifying** for disability benefits, not the **amount** of the benefit. If a person meets 75% of the contributory requirement for a disability benefit, they don't get 75% of that benefit. They don't get the benefit at all.⁹

[26] With respect to the Appellant's specific question, the CPP only explains how the death benefit is to be calculated. It does not say that I can use proration for appellants who apply for death benefits.

[27] As mentioned, I can only interpret and apply the law as it is explained in the CPP. I don't have the ability or authority to change what the law says. When I apply the law to the facts, I find C. P. didn't make enough contributions during her contributory period for

⁷ The Federal Court of Appeal says the Minister and the Tribunal are to round up when calculating a minimum qualifying period. See paragraph 39 of *Minister (Human Resources Development) v Skoric*, [2000] 3 CF, 2000 CanLII 17109 (FCA).

⁸ C. P.'s contributions can be found at GD7.

⁹ See subsection 44(2.1) of the *Canada Pension Plan*.

the Appellant to qualify for the death benefit. I can't prorate her contributions to allow for a partial benefit.

– **I can't make my decision for humanitarian or compassionate reasons**

[28] The Appellant says that he works for a tribunal, so he knows there is flexibility in tribunals. He says I should use my discretion to fix the bureaucratic injustice and administrative unfairness in this case by applying principles of equity, fairness, and compassion. A decision based on his requests would help C. P.'s nephew financially.

[29] I can't make my decision for humanitarian and compassionate reasons. I understand that, in some other instances, such as in immigration law, decision makers have the discretion to consider humanitarian and compassionate reasons. But in those cases, the relevant legislation explicitly gives decision makers that discretion.

[30] This is not the case at this Tribunal. There is no such provision within the Tribunal's legislation. This means the Tribunal does not have the ability to weigh humanitarian and compassionate considerations or exercise equitable jurisdiction.¹⁰

[31] Again, I can only interpret and apply the law as it is explained in the CPP. I don't have the ability or authority to change what the law says.

Conclusion

[32] The Appellant isn't entitled to a CPP death benefit.

[33] This means the appeal is dismissed.

Brianne Shalland-Bennett
Member, General Division – Income Security Section

¹⁰ See *Miter v Canada (Attorney General)*, 2017 FC 262.