



Citation: *MR v Minister of Employment and Social Development*, 2025 SST 258

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: M. R.
Representative: Carrie Onofreychuk

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated December 15, 2024
(GP-24-1770)

Tribunal member: Kate Sellar

Decision date: **March 20, 2025**

File number: AD-25-159

Decision

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

Overview

[2] The Claimant lives in the US. This appeal is about his Canada Pension Plan (CPP) retirement pension.

[3] The Claimant's representative says she filed the retirement pension application for the Claimant on July 31, 2023. The Minister of Employment and Social Development (Minister) says the only application it received arrived in May 2024.

[4] The Minister approved the application of May 2024 and began paying the Claimant the retirement pension effective June 2023.

[5] The Claimant asked the Minister to reconsider its decision. He said that his pension should start in August 2022 (11 months before July 2023). He explained that his representative dropped off the application at the Service Canada Centre in Winnipeg on July 31, 2023. He also pointed out that his representative signed the representative authorization (consent to communicate) on July 27, 2023, copies of documents were certified by a Notary Public on July 28, 2023, and he signed the application on August 28, 2023.

[6] The Minister reconsidered and decided to maintain the payment date of June 2023. The Minister said it had no evidence of an application filed before May 2024. The Claimant appealed to this Tribunal.

[7] The General Division dismissed the Claimant's appeal. The General Division found that the Claimant didn't prove he was eligible for the CPP retirement pension earlier than June 2023.

Issues

[8] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error of law by calculating the Claimant's start date for the retirement pension based on the May 2024 application?
- b) Does the application set out evidence that wasn't presented to the General Division?

I'm not giving the Claimant permission to appeal

[9] 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.¹

[10] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.²

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

There's no arguable case that the General Division made an error of law by basing the start date for the retirement pension on the May 2024 application.

[12] The Claimant argues that the General Division made a mistake in deciding the appeal. This is because the decision doesn't acknowledge the administrative problem the Claimant's representative encountered when she attended Service Canada on July

¹ See section 58.1(a) and (b) in the *Department of Employment and Social Development Act* (Act).

² See section 58.1(c) in the Act.

31, 2023.³ The Claimant explains that Service Canada refused to date stamp the application form that day, but after complaining to the Office for Client Satisfaction, they have agreed to date stamp these applications. The Claimant still wants the payment start date to reflect the application his representative says she dropped off on July 31, 2023.

– **The General Division decision**

[13] The General Division explained that to receive a CPP retirement pension, a person must apply for it in writing. The Minister can't approve an application unless the Minister first receives the application. The CPP says that if a person applies for the pension after they turn 65, the earliest the pension can start is 11 months before the date of the application.⁴

[14] The General Division found that the Claimant was over 65 when he applied, and that he applied in May 2024, so the earliest the retirement pension payments can start is June 2023.⁵

[15] The General Division explained that the application that Service Canada received was dated May 2024. The Minister didn't have any record of the application the representative said she filed in person on July 31, 2023. The General Division gave two reasons why it could not allow the appeal based on the date the Claimant proposed (i.e. July 31, 2023).

[16] First, the General Division explained that an argument about a lost or misplaced application is really about whether there was some kind of mistake made by the Minister. Service Canada can investigate those types of errors, and the Tribunal has no authority in that area.⁶

[17] Second, the General Division explained that even if it could find that the Minister received the Claimant's application in 2023, the General Division couldn't make a

³ See AD1-11.

⁴ See paragraphs 13 and 14 in the General Division decision.

⁵ See paragraph 15 and 16 in the General Division decision.

⁶ See paragraph 23 in the General Division decision.

decision on that application. The General Division's authority comes from the application (and reconsideration letter) before it. The General Division cannot make a decision on an application unless there is a reconsideration decision tied to that application.⁷

– **No arguable case for an error by the General Division**

[18] The Claimant hasn't provided any arguable case for an error by the General Division. It seems that the Claimant continues to rely on administrative error by the Minister (Service Canada) by refusing to date stamp documents.

[19] However, the Claimant has provided no argument to explain how it is that the General Division had the jurisdiction to find and remedy that type of error, or how the General Division might have proceeded to issue a decision on an application the Minister had no record of receiving.

[20] I see no arguable case for an error by the General Division. It reaffirmed the start date for the retirement pension by following the requirements in the CPP on the application that was before it. The Claimant has raised no legal argument in support of proceeding in any other way.

The Claimant hasn't provided new evidence

[21] 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 giving the Claimant permission to appeal.

[22] I've reviewed the record.⁸ I'm satisfied that there's no arguable case that the General Division ignored or misunderstood any important evidence. As the General Division noted, if the Claimant wishes to raise a case of administrative error by the

⁷ See paragraph 24 in the General Division decision. In reaching the conclusions in paragraphs 23 and 24, the General Division cited the law that applies, namely section 66(4), 81, 82 of the CPP, as well as case law from the Federal Court and the Appeal Division.

⁸ For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

Minister (Service Canada) under section 66 of the CPP, he may do so by contacting Service Canada directly.

Conclusion

[23] I've refused to give the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division