



Citation: *KP v Minister of Employment and Social Development*, 2025 SST 298

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:** K. P.

**Respondent:** Minister of Employment and Social Development

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**Decision under appeal:** General Division decision dated March 21, 2025  
(GP-25-177)

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**Tribunal member:** Kate Sellar

**Decision date:** **March 27, 2025**

**File number:** AD-25-221

## Decision

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

## Overview

[2] The Claimant started getting a Canada Pension Plan (CPP) disability pension in April 1998. He stopped getting a disability pension in July 2024 when he turned 65 years of age. He started getting a CPP retirement pension in August 2024.

[3] The monthly payments for the retirement pension are lower than what the Claimant's received in monthly payments when he had the disability pension. He asked the Minister of Employment and Social Development (Minister) to reinstate his CPP disability pension. The Minister refused. The Claimant appealed to this Tribunal.

[4] The General Division dismissed the Claimant's appeal. The General Division found that once the Claimant turned 65, he became eligible for the retirement pension and stopped being eligible for the disability pension.

## Issues

[5] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error of law by finding that the Claimant's CPP disability pension would end when he turned 65?
- b) Does the application set out evidence that wasn't presented to the General Division?

## **I'm not giving the Claimant permission to appeal**

[6] 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;
- made an error applying the law to the facts.<sup>1</sup>

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

[8] 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 finding that the Claimant's CPP disability pension ended when he turned 65.**

[9] The Claimant argues that the General Division made an error of law because they refused to cancel his retirement pension and give him back his disability pension. The Claimant argues he should be permitted to reinstate his disability pension because he still has a disability, and he had that disability in the months leading up to his 65<sup>th</sup> birthday.<sup>3</sup>

[10] The General Division explained that it has to follow what the CPP says about disability pensions and about retirement pensions. The CPP law says that you cannot

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

<sup>2</sup> See section 58.1(c) in the Act.

<sup>3</sup> See AD1-3.

be paid a disability pension after the month you turn 65. The Claimant turned 65 in July 2024, so that was the last month he could receive the disability pension.<sup>4</sup>

[11] The General Division also explained that the CPP says that when a person stops getting the disability pension because they turned 65, they are deemed to have applied for a retirement pension, with payments to start the next month.<sup>5</sup>

[12] That's why the Claimant's received a disability pension until July 2024, and why he started receiving a retirement pension in August 2024. The CPP doesn't allow the Minister to pay a disability pension to anyone for any month after they turn 65, regardless of their disability.

[13] The Claimant hasn't raised any arguable case for an error by the General Division. He hasn't provided any legal argument supporting the ability to continue to receive a disability pension after the age of 65. The law says that's not allowed, and the law applies to the Claimant.

## **There's no new evidence.**

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

[15] I've reviewed the record.<sup>6</sup> I'm satisfied that the General Division didn't overlook or misunderstand any important evidence that could change the outcome for the Claimant.

[16] I understand why the Claimant would prefer to continue to receive a disability pension because the monthly payment for that benefit is higher than the monthly benefit he receives as the retirement pension.

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<sup>4</sup> See paragraph 6 in the General Division decision, describing section 70(1) of the *Canada Pension Plan* (CPP).

<sup>5</sup> See paragraph 7 in the General Division decision, describing section 70(2) in the CPP.

<sup>6</sup> For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

[17] But the Tribunal doesn't have the ability to make an exception to the rules about disability pensions and retirement pensions for the Claimant. He isn't entitled to a disability pension anymore. This is because there is an age limit to receiving the disability pension. Regardless of his actual disability, now that he is 65, the Claimant receives the retirement pension instead.

## **Conclusion**

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

Kate Sellar  
Member, Appeal Division