



Citation: *AM v Minister of Employment and Social Development*, 2025 SST 377

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

# **Leave to Appeal Decision**

**Applicant:** A. M.

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

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**Decision under appeal:** General Division decision dated April 3, 2025  
(GP-25-27)

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**Tribunal member:** Kate Sellar

**Decision date:** **April 14, 2025**

**File number:** AD-25-264

## Decision

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

## Overview

[2] The Claimant applied for a Canada Pension Plan (CPP) survivor's pension in October 1995. The Minister of Employment and Social Development (Minister) refused her application in November 1995.<sup>1</sup> The Minister explained that she wasn't eligible for the survivor's pension because she was under 65, had no dependent children, and didn't have a disability. It also said she will be entitled to the benefit (upon application) when she reaches 65 years old or if she becomes disabled within the meaning of the CPP.

[3] The law changed in January 2019. It removed the requirement to be 65 years old, or have a disability, or have dependent children in order to be eligible for the CPP survivor's pension.<sup>2</sup>

[4] The Claimant applied for a CPP survivor's pension again in July 2024.<sup>3</sup> The Minister approved the application with an effective payment date of August 2023. The Claimant asked the Minister to reconsider the decision because she disagreed with the start date for the survivor's pension payments. In the reconsideration letter, the Minister didn't change the start date.<sup>4</sup> The Claimant appealed to this Tribunal.

[5] The General Division dismissed the Claimant's appeal. The General Division found that the Claimant wasn't eligible for survivor's pension payments any earlier than August 2023.

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<sup>1</sup> See GD4-87 for the Claimant's first application, and GD4-106 for the Minister's refusal.

<sup>2</sup> See section 44(1)(d) in the *Canada Pension Plan* (CPP).

<sup>3</sup> See GD2-9 and following.

<sup>4</sup> See GD2-7 and following.

## Issues

[6] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error by failing to calculate the start date for the survivor's pension differently based on the fact that she made an application in 1995?
- b) Does the application set out evidence that wasn't presented to the General Division?

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

[7] 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.<sup>5</sup>

[8] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.<sup>6</sup>

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

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<sup>5</sup> See section 58.1(a) and (b) in the *Department of Employment and Social Development Act* (Act).

<sup>6</sup> See section 58.1(c) in the Act.

## **There's no arguable case for an error of law by the General Division.**

[10] The Claimant argues the General Division made an error of law by finding she wasn't entitled to the CPP survivor's pension any earlier than August 2023. The Claimant argues that she met all the legal requirements for the survivor's pension as soon as the law changed in 2019, so her payments should have begun at that point.

[11] The Claimant agrees that the law requires that claimants file an application in order to be paid, but she says the General Division should have considered that she met that requirement by filing her first application in 1995.<sup>7</sup>

### **– The General Division decided the appeal based on the Claimant's July 2024 application.**

[12] The General Division applied the rules in the CPP to reach two important conclusions:

1. After the requirements for the survivor's pension changed in 2019, claimants had to "apply for the benefit **again** to be considered"; and
2. The Claimant received the CPP survivor's pension starting on the earliest date the law allows, which was eleven months before she applied in July 2024.<sup>8</sup>

### **– There's no arguable case that the General Division made an error of law by failing to use the 1995 application to calculate the start date for the Claimant's survivor's pension.**

[13] The Claimant hasn't raised an arguable case for an error of law by the General Division. The Claimant has good reason to want the 1995 application to assist her to meet the criteria for the CPP survivor's pension. However, she hasn't shown an arguable case that the wording of the CPP allows the General Division to take that approach.

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<sup>7</sup> See AD1B-4.

<sup>8</sup> See paragraphs 5 and 12 in the General Division decision. I bolded the word "again" in this decision, but it wasn't bolded in the General Division decision. The General Division relied on section 60(1) and 72 of the CPP to reach these conclusions.

[14] The General Division relied on three key sections of the CPP as its written.

[15] First, to pay a claimant, there must be an application, and the payment of the benefit must be approved.<sup>9</sup> So while the Claimant had an application in 1995, the Minister didn't approve payment of the survivor's pension until the Claimant's second application.

[16] Second, **in no case** is the survivor's pension payable earlier than 11 months before the Minister received the application.<sup>10</sup>

[17] Third, the General Division's authority to make any decision about the Claimant's CPP survivor's pension flows from her appeal of the reconsideration decision she received on the second application.<sup>11</sup> The General Division doesn't have authority to make decisions about the Claimant's first application. The Minister refused that application, and the Claimant never requested reconsideration or appealed that application.

[18] In light of the General Division's reasons and these three aspects of the language in the CPP, I cannot conclude that the Claimant has made an arguable case for an error of law. The General Division concluded, based on these sections of the CPP that the survivor's pension payments couldn't begin any earlier than August 2023.

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

[19] 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.

[20] I've reviewed the record.<sup>12</sup> I'm satisfied that the General Division didn't overlook or misunderstand any important evidence that could change the outcome for the Claimant. I understand why the Claimant would like the survivor's pension to be paid

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<sup>9</sup> See section 60(1) in the CPP, which the General Division relied on in its decision.

<sup>10</sup> See section 72 in the CPP, which the General Division relied on in its decision.

<sup>11</sup> See sections 81 and 82 in the CPP.

<sup>12</sup> For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

retroactively to when the law changed in 2019, but her payments have already started as early as the wording of the CPP allows.

## **Conclusion**

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

Kate Sellar  
Member, Appeal Division