



Citation: *MP v Minister of Employment and Social Development*, 2023 SST 550

## **Social Security Tribunal of Canada**

### **Appeal Division**

# **Decision**

<b>Appellant:</b>	M. P.
<b>Representative:</b>	V. M.
<b>Respondent:</b>	Minister of Employment and Social Development
<b>Representative:</b>	Stephanie Pilon-Millette

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<b>Decision under appeal:</b>	General Division decision dated December 1, 2022 (GP-21-1170)
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<b>Tribunal member:</b>	Kate Sellar
<b>Type of hearing:</b>	In Writing
<b>Decision date:</b>	May 4, 2023
<b>File number:</b>	AD-23-191

## Decision

[1] I'm allowing the appeal. The Claimant is entitled to a *Canada Pension Plan* (CPP) disability pension. Payments start July 2019. These are the reasons for my decision.

## Background

[2] M. P. (Claimant) applied for a *Canada Pension Plan* (CPP) disability pension in June 2020. The Minister of Employment and Social Development (Minister) refused her application initially and on reconsideration. The Claimant appealed the Minister's decision to this Tribunal.

[3] The General Division dismissed the Claimant's appeal. The General Division decided that the Claimant didn't have a reasonable explanation for not following medical advice, so her disability could not be considered severe within the meaning of the CPP.

[4] I gave the Claimant permission to appeal because it was arguable that the General Division got the facts wrong about the Claimant's treatment.

## The parties agree on the outcome of the appeal

[5] The parties have asked for a decision based on an agreement they reached during a settlement conference on May 4, 2023.<sup>1</sup>

[6] The parties agree on the following:

- The Appeal Division should allow the Claimant's appeal.
- The Claimant proved that she had a severe and prolonged disability within the meaning of the CPP when she stopped working in July 2017.<sup>2</sup>
- The Claimant's minimum qualifying period doesn't end until December 31, 2025.

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<sup>1</sup> See section 39(2) of the *Social Security Tribunal Rules of Procedure*.

<sup>2</sup> See section 42(2)(a) of the *Canada Pension Plan* (CPP).

- The earliest a claimant can be considered disabled for the purpose of the CPP disability pension is 15 months before they applied.<sup>3</sup> The Claimant applied in June 2020, so the earliest she can be considered disabled is March 2019.
- Payments start four months later in July 2019.<sup>4</sup>

## **I accept the parties' agreement**

[7] I accept the parties' agreement. The Claimant's disability is severe within the meaning of the CPP. The Claimant has pain that results in significant functional limitations. As a result, she is incapable regularly of pursuing any substantially gainful work. I am satisfied that the Claimant took steps to manage her medical conditions, and that she did not refuse treatment unreasonably. The Claimant's decision not to try the steroid injections was reasonable. She has made reasonable efforts to follow her doctor's recommendations about exercise, and to the extent that she has failed to follow the recommendations fully, she has a reasonable explanation.

[8] I'm satisfied that the Claimant's disability is long-continued and of indefinite duration. This means her disability is prolonged within the meaning of the CPP.

## **Conclusion**

[9] I allow the appeal. The Claimant is entitled to a *Canada Pension Plan* disability pension. Payments start July 2019.

Kate Sellar  
Member, Appeal Division

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<sup>3</sup> See section 42(2)(b) of the CPP for the 15-month rule.

<sup>4</sup> See section 69 of the CPP for the four-month waiting period.