



Citation: *Minister of Employment and Social Development v AN*, 2023 SST 1226

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: Minister of Employment and Social Development
Representative: Ian McRobbie

Respondent: A. N.
Representative: Lisette Leblanc

Decision under appeal: General Division decision dated July 19, 2023
(GP-22-808)

Tribunal member: Kate Sellar

Type of hearing: In Writing
Decision date: **September 7, 2023**
File number: AD-23-799

Decision

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

Overview

[2] A. N. (Claimant) was born in Jamaica and worked several different types of jobs there. He was also a seasonal migrant farm worker in Canada. He moved to Canada in October 2014. In January 2018, the Claimant was injured in a car accident. He has not ever been able to return to work. He applied for a CPP disability pension on April 8, 2020. The Minister of Employment and Social Development (Minister) refused his application initially and on reconsideration.

[3] The Claimant appealed to this Tribunal. The General Division allowed his appeal, finding that he proved he had a severe and prolonged disability within the meaning of the CPP starting in January 2018.

[4] The General Division decided that because the Claimant had a coverage period calculated using credit splitting, the law says that payment of his pension can't start to be paid earlier than the month after the credit splitting took place. Since the Claimant applied for the credit split in September 2020, the General Division decided that the Claimant's pension payments start October 2020.¹

[5] I gave the Minister permission to appeal the General Division's decision.

The parties agree on the outcome of the appeal

[6] The parties have asked for a decision based on an agreement they reached during a settlement conference on September 7, 2023.²

¹ See paragraphs 61 and 62 in the General Division decision.

² See Rule 39(2) of the *Social Security Tribunal's Rules of Procedure*.

[7] The parties agree on the following:

- The Appeal Division should allow the Minister's appeal.
- The Claimant proved that he had a severe and prolonged disability within the meaning of section 42(2) of the CPP.
- The Claimant became disabled in January 2018. His pro-rated coverage period calculated before the credit splitting ended on May 31, 2018.³ Since he became disabled within that pre-credit split coverage period, the rule in section 55.2(9) of the CPP about the payment start date when a person qualifies because of a credit split doesn't apply to the Claimant.
- The Claimant applied for the disability pension in April 2020. According to section 42(2)(b) of the CPP, the earliest a claimant can be considered disabled is 15 months before they applied. For the Claimant, that date is January 2019. In accordance with section 69 of the CPP, payments start four months later in May 2019.

I accept the proposed outcome

[8] The Claimant's disability is severe and prolonged within the meaning of the CPP, and he is entitled to the disability pension. His payments start in May 2019, consistent with the parties' agreement.

[9] The CPP has a rule about how to calculate benefits after a credit split. I accept that if someone **only qualifies for a benefit because of contributions from a credit split**, they cannot be paid earlier than the month after the credit split took place.⁴

[10] I'm satisfied that the rule about payment start dates when there is a credit split doesn't apply to the Claimant. He qualifies for the disability pension **without** the contributions from his credit split: he has a pre-credit split prorated coverage period that

³ See GD2-530 and following.

⁴ See section 55.2(9) of the CPP and the Minister's arguments at AD1-25.

ends on May 31, 2018. He became disabled within the meaning of the CPP in January 2018, during that pre-credit split coverage period.

Conclusion

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

Kate Sellar
Member, Appeal Division