



Citation: *Minister of Employment and Social Development v LG*, 2025 SST 19

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: Minister of Employment and Social Development
Representative: Dylan Edmonds

Respondent: L. G.

Decision under appeal: General Division decision dated December 19, 2023
(GP-22-96)

Tribunal member: Pierre Vanderhout

Type of hearing: Videoconference

Hearing date: January 8, 2025

Hearing participants: Appellant
Appellant's representative
Respondent

Decision date: January 9, 2025

File number: AD-24-205

Decision

[1] The appeal is allowed in part, in accordance with an agreement between the parties. The Respondent is entitled to a Canada Pension Plan (“CPP”) disability pension, with payments starting in April 2025.

Overview

[2] I will refer to the Respondent, L. G., as the “Claimant.” I will refer to the Appellant, the Minister of Employment and Social Development, as the “Minister.”

[3] The Claimant is 60 years old. She worked as a sonographer for more than 30 years. However, her work led to left shoulder and arm pain. She stopped working in April 2020. She tried to return to work that summer, but she did not succeed. She has not worked since then, although she did attend a retraining program.

[4] The Claimant applied for a CPP disability pension in April 2021.¹ The Minister denied her application initially and on reconsideration.² The Claimant then appealed to the General Division of the Social Security Tribunal (Tribunal).

[5] The Tribunal’s General Division allowed the Claimant’s appeal. The General Division found that she had been disabled since April 2020. One of my colleagues in the Tribunal’s Appeal Division gave the Minister permission to appeal the General Division decision. A substantial amount of additional evidence was filed at the Appeal Division.³

[6] The issue in this appeal is whether the Claimant’s disability became severe and prolonged within the meaning of the *Canada Pension Plan* by December 31, 2024. That was the last day of her coverage period.⁴

¹ See GD2-143 and GD2-144.

² See GD2-4 and GD2-136.

³ This included a 399-page workers’ compensation file (see AD10), a 467-page insurer’s file (see AD20), and a 107-page batch of medical documents (see AD5).

⁴ This date is based on her CPP contributions. Her CPP contributions are at AD19-3 to AD19-4. Service Canada uses a person’s years of CPP contributions to calculate her coverage period (MQP). See section 44(2) of the *Canada Pension Plan*. In this case, her MQP changed after she filed her appeal at the General Division. It previously was December 31, 2023. See, for example, GD3-3.

Preliminary matters

[7] The filing deadline in this appeal was October 29, 2024. The final response deadline was November 28, 2024. However, the Claimant filed some documents on December 31, 2024.⁵ She filed another one on January 3, 2025.⁶ I cannot consider documents filed after the deadlines unless I give the party permission to use that evidence.⁷

[8] After hearing the Claimant's explanation for the late filings, I gave her permission to use the evidence. I considered the factors set out in the *Social Security Tribunal Rules of Procedure*.⁸ The evidence was new and potentially relevant. She filed the evidence relatively quickly after she got it.⁹ By giving the Minister a brief period to respond, the process would still be fair. I did not need to delay the hearing.

The parties agree on the outcome of the appeal

[9] The parties have asked for a decision, based on an agreement they reached during a settlement conference on January 8, 2025. At the parties' request, I changed that day's hearing to a settlement conference after dealing with the preliminary matters.

[10] The parties agree on the following:

- The Appeal Division should allow the Minister's appeal in part. The parties do not need a full hearing at the Appeal Division.
- The Claimant is eligible for a CPP disability pension. She proved that her disability was severe and prolonged within the meaning of the *Canada Pension Plan* in December 2024. Based on her CPP contributions, the last day of her coverage period was December 31, 2024. This means her disability became severe and prolonged within her coverage period.

⁵ See AD22, AD23, and AD24.

⁶ See AD25.

⁷ See Rule 42(1) of the *Social Security Tribunal Rules of Procedure* (SST Rules).

⁸ See Rule 42(2) of the SST Rules.

⁹ The January 3, 2025, letter from her doctor was filed with the Tribunal on the very same day.

- CPP pension payments start four months after the disability onset date.¹⁰ In this case, payments start in April 2025 because December 2024 is the disability onset date.

I accept the parties' agreement

[11] I accept the parties' agreement in full.

[12] I am satisfied that the Claimant is eligible for the CPP disability pension. The evidence supports a finding that her disability is prolonged and became severe in December 2024.

[13] The Claimant has faced work challenges for many years. Working as a sonographer for more than 30 years likely caused the problems with her left arm and shoulder. The evidence shows that she likely was no longer able to do this job by 2020.¹¹ The bigger question is when she was incapable regularly of pursuing **any** substantially gainful occupation. That would determine whether her disability was severe before the end of 2024.¹²

[14] During the period leading up to the end of 2024, there was evidence both for and against severity.

[15] For example, in May 2024, the Claimant's family doctor said she had tendinosis of the left shoulder. As a result, he said she had been unable to do her sonographer job since 2020. She had pain, reduced left shoulder mobility, and difficulty in lifting objects. However, her doctor also supported retraining for a different occupation.¹³ Such a recommendation is usually not consistent with a severe disability. It did not appear to preclude suitable sedentary work.

¹⁰ See section 69 of the *Canada Pension Plan*.

¹¹ See, for example, GD2-63 and GD6-8.

¹² The definition of a "severe" disability is in section 42(2)(a)(i) of the *Canada Pension Plan*.

¹³ See AD5-46.

[16] However, the Claimant's doctor provided a different assessment on January 3, 2025. He said her disabling conditions were chronic shoulder pain and brain changes consistent with multiple sclerosis.¹⁴

[17] At that time, the Claimant's doctor said she had pain in both shoulders. It was particularly bad with prolonged sitting and studying. Her movements were restricted. She had to avoid showering. She had to avoid high shelves. She had trouble with daily tasks such as carrying groceries, vacuuming, dishwashing, and walking. She also struggled with concentration and productivity, especially during prolonged sitting. Her doctor said her health issues now prevented her from returning to **any** work.¹⁵

[18] While the Claimant's doctor gave this opinion three days after 2024 ended, it likely reflected her limitations by the end of December 2024. She had asked her doctor for an updated report when she saw him on November 13, 2024. However, her doctor said she needed to set up a separate appointment for that purpose. The next available appointment was on January 3, 2025.¹⁶

[19] The evidence therefore supports an onset date of December 2024 for the Claimant's severe disability. The limitations described on January 3, 2025, appear to preclude both her former job and a more sedentary role.

[20] The evidence also supports finding that the Claimant's disability was prolonged. In January 2025, her doctor described her health issues as ongoing. Her shoulder pain was chronic.¹⁷ Given the long progressive history of her shoulder pain, her disability was likely to be long continued and of indefinite duration. This satisfies the CPP definition of a prolonged disability.¹⁸

[21] As the Claimant had a severe and prolonged disability by the end of December 2024, she is entitled to a CPP disability pension. However, the CPP has a four-month

¹⁴ See AD25-2.

¹⁵ See AD25-2.

¹⁶ The Claimant said this when I asked her some questions about the late documents.

¹⁷ See AD25-2.

¹⁸ The definition of a "prolonged" disability is in section 42(2)(a)(ii) of the *Canada Pension Plan*.

waiting period before pension payments can start.¹⁹ Her disability onset date is December 2024. This means her first pension payment will be in April 2025.

Conclusion

[22] The appeal is allowed in part. The Claimant is eligible for a CPP disability pension. Payments start in April 2025.

Pierre Vanderhout
Member, Appeal Division

¹⁹ See section 69 of the *Canada Pension Plan*.