



Citation: *JP v Minister of Employment and Social Development*, 2025 SST 620

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: J. P.
Representative: L. S.

Respondent: Minister of Employment and Social Development
Representative: Rebekah Ferriss

Decision under appeal: General Division decision dated August 16, 2024
(GP-23-1219)

Tribunal member: Neil Nawaz

Type of hearing: In writing
Decision date: June 16, 2025
File number: AD-24-721

Decision

[1] The appeal is allowed in accordance with an agreement reached between the parties.

Overview

[2] The Appellant is a 45-year-old former machine operator who used to work in a tire factory. In 2018, he stopped working after he developed hip pain. He was diagnosed with avascular necrosis and underwent bilateral hip replacement in 2021. Despite these surgeries, he continued to experience periodic pain in his back and legs.

[3] In July 2022, the Appellant applied for a Canada Pension Plan (CPP) disability pension.¹ He claimed that he was no longer able to manage the physical demands of his job.

[4] Service Canada refused the application. It decided that the Appellant did not have a severe and prolonged disability during his coverage period, which ended on December 31, 2020.²

[5] The Appellant appealed Service Canada's refusal to the Social Security Tribunal. The Tribunal's General Division held a hearing and dismissed the appeal. It acknowledged that the Appellant had ongoing pain, but it didn't find enough medical evidence to suggest he was prevented from all kinds of work. It noted that, although the Appellant had only done physical jobs, he had a high school education and was still many years from retirement age.

¹ See the Appellant's application for a CPP disability pension dated July 18, 2022, GD2-39. This was the Appellant's second application. Service Canada also refused his first, submitted on March 3, 2021 (GD2-77), but the Appellant did not appeal that refusal.

² Under section 44(2) of the *Canada Pension Plan*, a disability claimant must show that they have a severe and prolonged disability during their coverage period. A coverage period is established by working and contributing to the CPP. See the Appellant's record of earnings and contributions at GD2-103.

[6] The Appellant then asked the Appeal Division for permission to appeal. Last year, one of my colleagues allowed her appeal to proceed on the grounds that the General Division might have made an error of law in coming to its decision.

[7] Earlier this month, the Minister's representative requested a settlement conference to present an offer to the Appellant. At the conference, the Appellant accepted the offer, and the parties have asked me to prepare a decision that reflects their agreement.

Agreement

[8] The Minister conceded that the Appellant had a severe and prolonged disability as of December 31, 2020.³ It determined that he was entitled to a CPP disability pension as of August 2021.

[9] The Appellant expressed his agreement with these statements.

[10] Having reviewed the record, I am endorsing the parties' agreement for the following reasons:

- The Appellant left his job because of significant hip pain. Despite two hip replacement surgeries, followed by physiotherapy, he was left with ongoing pain, discomfort, and functional limitations.⁴
- The pain has interfered with his ability to perform physical tasks such as lifting and bending, walking and standing. He has also developed knee and elbow pain, as well as anxiety and depression.
- With his physical and psychological conditions, the Appellant who has a limited education and a one-dimensional work history, is effectively unemployable, despite only being in his 40s.

³ Refer to recording of the settlement conference held on May 16, 2025.

⁴ See Sr. Azadian's letter dated April 14, 2025, AD8-4.

Conclusion

[11] I hereby allow the appeal in accordance with the parties' agreement. Since the Minister received the Appellant's application for benefits in July 2022, the Appellant is deemed disabled as of April 2021.⁵ That means the effective start date of the Appellant's CPP disability pension is August 2021.⁶



Member, Appeal Division

⁵ Under section 42(2)(b) of the *Canada Pension Plan*, a person cannot be deemed disabled more than 15 months before the Minister received the application for a disability pension.

⁶ According to section 69 of the *Canada Pension Plan*, payments start four months after the deemed date of disability.