

Federal Court



Cour fédérale

**Date: 20241108**

**Docket: T-834-24**

**Citation: 2024 FC 1793**

**Ottawa, Ontario, November 8, 2024**

**PRESENT: The Honourable Madam Justice Turley**

**BETWEEN:**

**ARNOLD ABRAMOWITZ**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS FOR JUDGMENT**

**I. Overview**

[1] The Applicant, a self-represented litigant, seeks judicial review of a decision of the Social Security Tribunal of Canada's Appeal Division refusing leave to appeal a decision of the Tribunal's General Division. This application stems from the Applicant's automatic enrolment for an Old Age Security [OAS] pension, and the Minister of Employment and Social

Development Canada's [Minister] May 2020 decision to begin paying the pension effective June 2020.

[2] The Applicant sought a reconsideration of the Minister's decision in June 2022, two years after he began receiving his OAS pension. The Minister refused his reconsideration request for two reasons. First, the Applicant had missed the 90-day deadline cited in the Minister's May 2020 decision. Second, subsection 26.1(1) of the *Old Age Security Regulations*, CRC, c 1246 [OAS Regulations] requires that a request to cancel an OAS pension be made no later than six months after the day payments begin.

[3] The General Division dismissed the Applicant's appeal, finding that the Minister had exercised their discretion judicially in refusing the Applicant's reconsideration request. The Appeal Division refused leave to appeal because the Applicant had not made an arguable case that the General Division erred in its decision.

[4] I am dismissing this application. The Applicant has failed to establish that the Appeal Division erred in refusing to grant him leave to appeal. Given the legislative requirement that a request to cancel an OAS pension be made within six months of its commencement, an appeal had no reasonable chance of success.

## II. Background

### A. *OAS automatic enrolment*

[5] In April 2013, Employment and Social Development Canada [ESDC] started automatically enrolling new OAS beneficiaries as part of its OAS Service Improvement Strategy. The stated purpose was to modernize the delivery of the OAS program by generating administrative efficiencies and thereby improving services to eligible seniors.

[6] Service Canada manages EDSC programs for the Government of Canada. Under the OAS automatic enrolment program, eligible individuals receive a letter the month after turning 64 years old. These letters explain that recipients have been selected for automatic enrolment based on their OAS eligibility.

[7] In this case, the Applicant received a letter dated May 21, 2019, from Service Canada advising him that his OAS pension would automatically begin in June 2020. The letter further informed the Applicant that he should contact Service Canada as soon as possible if he wished to delay the start of his OAS pension. Delaying the start date would increase payments by 0.6 percent for each month of delay, up to a maximum of 36 percent at age 70. The Applicant did not contact Service Canada after receiving this letter.

[8] By letter dated May 10, 2020 (referred to as the Minister's May 2020 decision in these reasons), the Applicant was advised that he would begin receiving his OAS pension in June 2020, in the amount of \$613.53 per month. The Minister's May 2020 decision advised that the

Applicant had 90 days to request a reconsideration if he disagreed with the decision, and provided information about how to make such a request. In addition, the decision explained that OAS pensions are taxable. If the Applicant's income was above a certain amount (\$74,788 in 2017), Service Canada could withhold a portion of his OAS pension on behalf of the Canadian Revenue Agency [CRA]. The Applicant did not request a reconsideration of the Minister's May 2020 decision within the prescribed 90 days.

B. *The Applicant's request for reconsideration*

[9] On June 14, 2022, the Applicant requested that the Minister reconsider their May 2020 decision. His explanation for requesting reconsideration beyond the 90-day deadline was that he had not realized his entire OAS pension would be "clawed back" because he was still working. The Applicant further stated that he could not go to a Service Canada centre earlier due to the pandemic.

[10] The Minister denied the Applicant's request for reconsideration because he had missed the 90-day deadline set out in the May 2020 decision. Furthermore, in accordance with subsection 26.1(1) of the *OAS Regulations*, a request to cancel a pension must be made no later than six months after the day on which pension payments begin.

[11] Given the Applicant stated that he had not understood the implications of OAS automatic enrolment, the Minister determined that his situation warranted a separate review under the administrative error/erroneous advice provision in section 32 of the *Old Age Security Act*, RSC, 1985, c O-9 [*OAS Act*]. Section 32 allows the Minister to take remedial action where an

individual was denied a benefit due to a departmental error. The Applicant's OAS pension was suspended during the section 32 investigation, and he was provided an opportunity to submit additional evidence.

[12] Based on their review of the Applicant's file, the Minister determined that Service Canada had not provided erroneous advice nor was there an administrative error: Letter dated August 14, 2023, Respondent's Record, Volume I, at 99. This determination was based on the following: (i) the Applicant was notified of his selection for automatic enrolment in May 2019; (ii) he was advised to contact Service Canada if he did not want to start his OAS pension the month following his 65<sup>th</sup> birthday; (iii) he was provided information about delaying his pension; and (iv) he was advised by the CRA in June 2020 that the applicable tax recovery rate was set on his OAS account based on his 2019 employment income. In addition, the Minister noted that an eService Canada telephone system was available to individuals who were unwilling or unable to attend Service Canada centres in-person during the pandemic.

*C. The General Division's decision*

[13] The Applicant appealed the Minister's refusal to reconsider their May 2020 decision to the General Division. In his appeal, the Applicant alleged that the Minister's decision failed to explain that his pension payments would be "clawed back" due to his current tax bracket, and that he could delay the start of his pension. He further argued that he could not go to a Service Canada centre during the pandemic. Finally, he complained that the Minister took seven months to issue their reconsideration decision.

[14] The General Division dismissed the appeal, finding that the Minister exercised their discretion judicially in refusing the Applicant's reconsideration request. The General Division held that the Applicant was advised of his automatic enrolment on two occasions, in May 2019 and again in May 2020. Further, it stated that the "letters contain contact information and online resources that could be accessed in order to clarify any confusion": Decision of the Social Security Tribunal of Canada, General Division – Income Security Section dated December 29, 2023 at para 22 [General Division Decision].

[15] Notably, the General Division held that the Applicant's pension could only be cancelled within six months of its start date:

[23] After he was auto-enrolled, he then had six months after the date his pension began to request that it be cancelled. His pension could not be cancelled after six months pursuant to the OAS. He did not request that his OAS pension be cancelled within six months.

D. *The Appeal Division's decision*

[16] The Applicant sought leave to appeal the General Division's decision. He argued that the General Division failed to consider: (i) the Minister's error in automatically enrolling him; (ii) the reason for his delay in requesting reconsideration; and (iii) the length of time the Minister took to respond to his reconsideration request.

[17] The Appeal Division refused leave to appeal. After considering the Applicant's submissions, the Appeal Division concluded that none of the grounds raised had a reasonable chance of success.

### **III. Issues and Standard of Review**

[18] The Applicant argues that the Appeal Division made three errors in denying leave to appeal: (i) it failed to consider that the Minister erred in automatically enrolling him for OAS; (ii) it did not consider the effects of the pandemic in its analysis; and (iii) it did not find the Minister’s delay in considering his reconsideration request relevant.

[19] There is no dispute that reasonableness is the applicable standard of review for decisions of the Appeal Division denying leave to appeal: *Mélinard-Beaulieu v Canada (Attorney General)*, 2023 FC 1680 at para 6 [*Mélinard-Beaulieu*]; *Bhamra v Canada (Attorney General)*, 2023 FCA 121 at para 3; *Pike v Canada (Attorney General)*, 2019 FC 135 at para 23 [*Pike*].

[20] A reasonable decision is “one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker”: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8 [*Mason*]. A decision should only be set aside if there are “sufficiently serious shortcomings” such that it does not exhibit the requisite attributes of “justification, intelligibility and transparency”: *Vavilov* at para 100; *Mason* at paras 59–61.

#### IV. Analysis

##### A. *The relevant legislative regime*

[21] Before turning to the merits of the Appeal Division's decision, I will review the legislative regime that applies to the Applicant's case. The relevant provisions are set out in an Annex to these reasons.

##### (1) Reconsideration of decisions made under the *OAS Act*

[22] Both the General and Appeal Divisions of the Social Security Tribunal of Canada referred to the incorrect legislation for reconsidering the Minister's May 2020 decision. However, as I explain below, this ultimately has no impact on the merits of this application.

[23] In its decision, the General Division relies on section 81 of the *Canada Pension Plan*, RSC, 1985, c C-8 [CPP] and subsections 74.1(3) and (4) of the *Canada Pension Plan Regulations*, CRC, c 385 [CPP Regulations]. In its decision, the Appeal Division refers to the *CPP Regulations*. Those provisions, however, are not applicable as they only apply to requests for reconsiderations of decisions made under the *CPP*.

[24] The *OAS Act* and the *OAS Regulations* set out a similar process regarding requests for reconsideration of decisions concerning OAS benefits. The Minister's authority to reconsider under the *OAS Act* is found in section 27.1: *Canada (Minister of Human Resources Development) v Tucker*, 2002 FCT 492 at para 26. Subsection 27.1(1) provides that a person



“who is dissatisfied with a decision or determination made under this Act that no benefit may be paid to the person, or respecting the amount of a benefit that may be paid to the person” may make a request to the Minister for reconsideration of that decision or determination. It provides a 90-day deadline for making such a request, similar to section 81 of the *CPP*.

[25] In addition, subsections 29.1(1) and (2) of the *OAS Regulations* provide the Minister with the discretion to allow a person more than 90 days to make a request for reconsideration under subsection 27.1(1) of the *OAS Act*. This parallels subsections 74.1(3) and (4) of the *CPP Regulations*. Both the *OAS Regulations* and the *CPP Regulations* set out the same four factors relevant to the Minister’s exercise of discretion to extend the 90-day reconsideration request deadline. These factors are: (i) a reasonable explanation for the delay; (ii) a continuing intention to request a reconsideration; (iii) a reasonable chance of success; and (iv) prejudice to the Minister.

[26] Given the identical nature of the CPP and OAS reconsideration provisions, referencing the former instead of the latter is of no consequence to the substance of the Appeal Division’s decision. This erroneous reference is not a “sufficiently serious shortcoming” that renders the decision unreasonable: *Vavilov* at para 100. That said, the Court expects that the Social Security Tribunal will be more careful to cite the correct legislation in their future decisions.

[27] In this case, the Minister’s May 2020 decision is “a decision or determination” as contemplated by subsection 27.1(1) of the *OAS Act*. More particularly, it is a decision “respecting the amount of a benefit that may be paid to the person”. The decision specifically

informed the Applicant that he would receive an OAS pension of \$613.53 monthly starting June 2020, when he turned 65 years of age. Significantly, this start date affected the quantum of the Applicant's monthly pension. As Service Canada's May 2019 letter stated, the Applicant could have delayed the start date of his OAS pension for up to five years. This would have increased the amount payable by 0.6 percent per month of delay, up to a maximum of 36 percent at age 70.

(2) Cancelling an OAS pension

[28] The above OAS reconsideration provisions must be read in conjunction with the legislative provisions concerning the cancellation of an OAS pension. In accordance with subsection 9.3(1) of the *OAS Act* and subsection 26.1(1) of the *OAS Regulations*, a recipient has six months after the day on which pension payments begin to make a request for cancellation. As Justice Norris concluded, "neither the *OAS Act* nor the *OAS Regulations* provide for an extension of the six month time limit": *Pike* at para 4.

[29] The General Division recognized this in its decision when it held that the Applicant's "pension could not be cancelled after six months pursuant to the OAS" [emphasis added]: General Division Decision at para 23. This is dispositive of the Applicant's case. The Applicant was statute-barred from cancelling his OAS pension when he sought reconsideration of the Minister's May 2020 decision in June 2022.

[30] Indeed, the Minister relied on subsection 26.1(1) of the *OAS Regulations* in their January 5, 2023 letter denying the Applicant's request for reconsideration. While the Minister considered the relevant factors set out in subsections 29.1(1) and (2) of the *OAS Regulations*,

they determined that the Applicant’s reconsideration request had “no reasonable chance of success” because it was filed more than six months after his OAS pension payments had begun: Minister’s Submission to the General Division dated June 28, 2023, Respondent’s Record, Volume II, at 161–63.

[31] As the General Division explained, the four factors that a person must meet in seeking a reconsideration are cumulative, meaning that, “if the [Applicant] doesn’t meet one of these four factors, then he isn’t entitled to have the Minister’s decision reconsidered”: General Division Decision at para 16. This is precisely what occurred here. The Minister determined that the Applicant’s reconsideration request had no reasonable chance of success because it was statute-barred by subsection 26.1(1) of the *OAS Regulations*.

B. *The Appeal Division’s decision is reasonable*

[32] The Appeal Division can only grant leave to appeal if an appellant presents new evidence or raises an “arguable case” that the General Division breached natural justice, acted beyond or refused to exercise its jurisdiction, or erred in law, in fact, or in mixed law and fact: *Department of Employment and Social Development Act*, SC 2005, c 34, s 58.1. An arguable case is one with a reasonable chance of success: *Mélinard-Beaulieu* at para 11; *Leblanc v Canada (Human Resources and Skills Development)*, 2010 FC 641 at para 24, citing *Canada (Minister of Human Resources Development) v Hogervorst*, 2007 FCA 41 at para 37.

[33] During oral submissions, the Applicant questioned the soundness and efficacy of automatic enrolment. However, as I explained at the hearing, my role is to review whether the

Appeal Division's decision is reasonable. I am not sitting in review of the government's OAS automatic enrolment policy.

[34] Having reviewed the record and considered the parties' written and oral submissions, I find no reviewable error in the Appeal Division's decision denying leave. In my view, the Appeal Division reasonably concluded that the Applicant's arguments had no reasonable chance of success on appeal.

[35] As stated above, the determinative issue in this matter is that the Applicant's request for reconsideration of the Minister's May 2020 decision was statute-barred by virtue of subsection 26.1(1) of the *OAS Regulations*. By the time the Applicant requested a reconsideration, his OAS pension had been in pay for almost two years. There is no authority in either the *OAS Act* or the *OAS Regulations* to extend subsection 26.1(1)'s six-month deadline. While this is dispositive of this judicial review application, I have nonetheless addressed each of the Applicant's arguments.

[36] First, I do not accept that the Appeal Division failed to consider the Applicant's argument that the Minister erred by automatically enrolling him for an OAS pension. The Appeal Division addressed this argument in paragraphs 14-17 of its decision, concluding that the General Division considered it "in some detail". Furthermore, the argument that the Minister was required to consider whether the Applicant was still working before automatically enrolling him for an OAS pension is without merit. As the General Division reasoned, "the [*OAS Act*] does not require the Minister to consider the effect of auto-enrollment on appellants before they are selected": General Division Decision at para 24.

[37] The Applicant received over one year's notice of his automatic enrolment and was duly advised of the aspects related to that enrolment. Notably, he was informed that if his net income was above a certain amount, a portion of the OAS payment could be withheld for income tax purposes. In addition, the Applicant was told that delaying his pension would increase his future monthly payments.

[38] By his own admission, the Applicant did not review the letters he received from Service Canada. He asserts that, had he known all the implications, he "surely would have protested in the beginning and rejected the auto enrolment": Affidavit of Arnold Abramowitz affirmed March 4, 2024 at para 3. However, the record shows that the Applicant was advised of the implications well in advance so that he could make an informed decision. The fact that the Applicant was very busy at work does not relieve him of the obligation to ensure he understood the consequences of receiving his pension at the age of 65 while still employed. I agree with the Respondent that, "the Applicant is responsible for managing his own retirement planning": Respondent's Memorandum of Fact and Law at para 20.

[39] The Applicant cited section 32 of the *OAS Act* in both his written and oral submissions to support his argument that the Appeal Division failed to consider the Minister's error in automatically enrolling him for an OAS pension. As set out in paragraphs 11-12 above, the Minister initiated an investigation under section 32 of the *OAS Act* and determined that there had been no erroneous advice given or administrative error made in automatically enrolling the Applicant. The Minister determined that the Applicant was provided all necessary information in May 2019, and again in May 2020, to enable him to request that his OAS pension not start

effective June 2020 when he turned 65. That decision was communicated to the Applicant on August 14, 2023, and there is no indication that he took any steps to challenge it.

[40] Second, the Applicant argues that the Appeal Division ignored the reason for his delay in requesting reconsideration of the Minister's May 2020 decision. I do not agree. As the Appeal Division pointed out, the General Division specifically noted the Applicant's explanation for his delay — that because of the pandemic, he did not want to attend a Service Canada centre in person and that he was extremely busy with work. The General Division determined that the Minister exercised their discretion judicially in finding that this explanation was not reasonable. The Applicant was provided with two opportunities to decline automatic enrolment and request that his pension begin at a later point in time, but he failed to do so. In addition, the Applicant was provided with “contact information and online resources that could be accessed in order to clarify any confusion”: General Division Decision at para 22.

[41] Finally, the Applicant argues that the Appeal Division erred in finding that the General Division's failure to address the Minister's delay in responding to his request was irrelevant. Before the General Division, the Applicant argued that the Minister had not adhered to Service Canada's own guidelines in responding to his request. While the Appeal Division acknowledged that the General Division did not address this argument, it held that the General Division is “presumed to have considered all the evidence, even if it doesn't discuss every piece of evidence in [its] decision”: Decision of the Social Security Tribunal of Canada, Appeal Division dated January 26, 2024 at para 23 [Appeal Division Decision]. The Appeal Division concluded that the General Division did not err in failing to specifically address the delay because it was not

“relevant to the factors the Minister had to consider about giving the [Applicant] more time”:  
Appeal Division Decision at para 24.

[42] The Appeal Division’s determination on this issue could have been clearer. However, a decision-maker’s reasons are not to be held to a standard of perfection: *Vavilov* at para 91. As the Respondent noted, the Social Security Tribunal of Canada endeavours to write their reasons in plain language to make them more accessible to the public. In assessing the reasonableness of the Appeal Division’s decision, the Court must be satisfied that its conclusions are “justified in relation to the facts and law that constrain the decision maker”: *Vavilov* at para 85. Here, the relevant legal constraint bearing on the decision-makers at all levels is section 26.1 of the *OAS Regulations*. There is no legal basis upon which the Applicant’s OAS pension could be cancelled after it had been in pay for six months. Given that legal impediment, there is no recourse for the Applicant.

[43] Before this Court, the Applicant raised a new legal argument concerning delay. He argues that the Minister was required to respond to his reconsideration request “without delay” in accordance with subsection 27.1(2) of the *OAS Act*. Generally, courts will refuse to exercise their discretion to consider a new issue on judicial review where the issue could have been raised before the original decision-maker: *Alberta (Information and Privacy Commissioner) v Alberta Teachers’ Association*, 2011 SCC 61 at paras 22–26 [*Alberta Information and Privacy Commissioner*]; *Oleynik v Canada (Attorney General)*, 2020 FCA 5 at para 71. There are a number of reasons for this general rule, including respect for the first instance decision-maker, prejudice to the opposing party, and the possibility of denying the court an adequate evidentiary

record to consider the issue at hand: *Alberta Information and Privacy Commissioner* at paras 24–26.

[44] In this case, while this statutory provision was not raised before the Social Security Tribunal of Canada, the issue of the Minister’s delay was squarely raised. However, this provision does not change the applicable legislative landscape for the same reason as explained above in paragraph 42. The bottom-line is that the Applicant’s reconsideration request was statute-barred. Even if the Minister failed to deal with his request “without delay”, the Applicant is not legally entitled to the remedy he requests — cancellation of his OAS pension effective June 2020. In the circumstances of this case, a finding that the Minister failed to respond “without delay” would not change the result.

## V. Conclusion

[45] Based on the foregoing, there is no basis upon which this Court can intervene. The Appeal Division reasonably concluded that the Applicant did not meet the threshold for leave to appeal the General Division’s decision. The application for judicial review is therefore dismissed.

[46] While the Respondent sought costs in their written submissions, counsel advised at the hearing of this matter that they were no longer seeking their costs, if successful. As a result, no costs are awarded.



**JUDGMENT in T-834-24**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed  
without costs.

“Anne M. Turley”

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Judge

**ANNEX**

*Old Age Security Act, RSC 1985, c O-9 / Loi sur la sécurité de la vieillesse, LRC 1985, ch O-9 :*

<p><b>Payment of Pension</b></p> <p>[...]</p>	<p><b>Service de la pension</b></p> <p>[...]</p>
<p><b>Request to cancel pension</b></p> <p><b>9.3 (1)</b> A pensioner may, in the prescribed manner and within the prescribed time after payment of a pension has commenced, request cancellation of that pension.</p> <p>[...]</p>	<p><b>Demande d'annulation du service de la pension</b></p> <p><b>9.3 (1)</b> Durant la période et selon les modalités prévues par règlement, le pensionné peut, après le début du service de la pension, en demander l'annulation.</p> <p>[...]</p>
<p><b>Reconsiderations and Appeals</b></p> <p><b>Request for reconsideration by Minister</b></p> <p><b>27.1 (1)</b> A person who is dissatisfied with a decision or determination made under this Act that no benefit may be paid to the person, or respecting the amount of a benefit that may be paid to the person, may, within ninety days after the day on which the person is notified in writing of the decision or determination, or within any longer period that the Minister may, either before or after the expiration of those ninety days, allow, make a request to the Minister in the prescribed form and manner for a reconsideration of that decision or determination.</p> <p>[...]</p>	<p><b>Révisions et appels</b></p> <p><b>Demande de révision par le ministre</b></p> <p><b>27.1 (1)</b> La personne qui se croit lésée par une décision de refus ou de liquidation de la prestation prise en application de la présente loi peut, dans les quatre-vingt-dix jours suivant la notification par écrit de la décision, ou dans le délai plus long que le ministre peut accorder avant ou après l'expiration du délai de quatre-vingt-dix jours, demander au ministre, selon les modalités réglementaires, de réviser sa décision.</p> <p>[...]</p>
<p><b>Decision of Minister</b></p> <p><b>(2)</b> The Minister shall, without delay after receiving a request referred to in subsection (1) or (1.1), reconsider the decision or determination, as the case may</p>	<p><b>Décision du ministre</b></p> <p><b>(2)</b> Le ministre étudie les demandes dès leur réception; il peut confirmer ou modifier sa décision soit en agréant le versement de la prestation ou en la</p>

be, and may confirm or vary it and may approve payment of a benefit, determine the amount of a benefit or determine that no benefit is payable, and shall without delay notify, in writing, the person who made the request of the Minister's decision and of the reasons for it.

### **Appeal — benefits**

**28 (1)** A person who is dissatisfied with a decision of the Minister made under section 27.1, including a decision in relation to further time to make a request, or, subject to the regulations, any person on their behalf, may appeal the decision to the Social Security Tribunal established under section 44 of the Department of Employment and Social Development Act.

[...]

### **Erroneous Advice or Administrative Error**

#### **Where person denied benefit due to departmental error, etc.**

**32** Where the Minister is satisfied that, as a result of erroneous advice or administrative error in the administration of this Act, any person has been denied a benefit, or a portion of a benefit, to which that person would have been entitled under this Act, the Minister shall take such remedial action as the Minister considers appropriate to place the person in the position that the person would be in under this Act had the erroneous advice not been given or the administrative error not been made

liquidant, soit en décidant qu'il n'y a pas lieu de verser la prestation. Sans délai, il notifie sa décision et ses motifs.

### **Appels en matière de prestation**

**28 (1)** La personne qui se croit lésée par une décision du ministre rendue en application de l'article 27.1, notamment une décision relative au délai supplémentaire, ou, sous réserve des règlements, quiconque pour son compte, peut interjeter appel de la décision devant le Tribunal de la sécurité sociale, constitué par l'article 44 de la Loi sur le ministère de l'Emploi et du Développement social.

[...]

### **Avis erroné ou erreur administrative**

#### **Refus de prestation dû à une erreur du ministère**

**32** S'il est convaincu qu'une personne s'est vu refuser tout ou partie d'une prestation à laquelle elle avait droit par suite d'un avis erroné ou d'une erreur administrative survenus dans le cadre de la présente loi, le ministre prend les mesures qu'il juge de nature à replacer l'intéressé dans la situation où il serait s'il n'y avait pas eu faute de l'administration

*Old Age Security Regulations, CRC, c 1246 / Règlement sur la sécurité de la vieillesse, CRC, ch 1246 :*

### **Cancellation of Pension or Supplement**

**26.1 (1)** For the purposes of subsections 9.3(1) and 18.2(1) of the Act, a request for cancellation of a pension or supplement shall be made to the Minister in writing no later than six months after the day on which payment of the pension or supplement, as the case may be, begins.

[...]

### **Reconsiderations**

#### **Request for Reconsideration**

**29** A request for a reconsideration under section 27.1 of the Act shall be made in writing and be conveyed to the Minister and shall set out

(a) the name, address and Social Insurance Number or Account Number of the person; and

(b) the grounds for the request for a reconsideration and a statement of the facts that form the basis of that request.

**29.1 (1)** For the purposes of subsection 27.1(1) and (1.1) of the Act and subject to subsection (2), the Minister may allow a longer period to make a request for reconsideration of a decision or determination if the Minister is satisfied that there is a reasonable explanation for requesting a longer period and the person has demonstrated a continuing intention to request a reconsideration.

### **Annulation de la pension ou du supplément**

**26.1 (1)** Pour l'application des paragraphes 9.3(1) et 18.2(1) de la Loi, la demande d'annulation du service de la pension ou du service du supplément, selon le cas, est présentée au ministre par écrit dans les six mois suivant la date où le service a débuté.

[...]

### **Révisions**

#### **Demande de révision**

**29** La demande de révision visée à l'article 27.1 de la Loi est faite par écrit, est envoyée au ministre et contient les renseignements suivants :

a) les nom et adresse ainsi que le numéro d'assurance sociale ou le numéro de compte de la personne;

b) les motifs de la demande et un exposé des faits sur lesquels elle est fondée.

**29.1 (1)** Pour l'application des paragraphes 27.1(1) et (1.1) de la Loi et sous réserve du paragraphe (2), le ministre peut accorder une prolongation de délai pour la présentation d'une demande de révision d'une décision de refus ou de liquidation, s'il est convaincu, d'une part, qu'il existe une explication raisonnable à l'appui de la demande de prolongation du délai et, d'autre part, que l'intéressé a manifesté l'intention constante de demander la révision.

**(2)** The Minister must also be satisfied that the request for reconsideration has a reasonable chance of success, and that no prejudice would be caused to the Minister or a party by allowing a longer period to make the request, if the request for reconsideration

**(a)** is made after the 365-day period after the day on which the person is notified in writing of the decision or determination; or

**(b)** is made by a person who has applied again for the same benefit.

**(2)** Dans les cas ci-après, le ministre doit aussi être convaincu que la demande de révision a des chances raisonnables de succès et que l'autorisation du délai supplémentaire ne lui porte pas préjudice ni d'ailleurs à aucune autre partie :

**a)** la demande de révision est présentée après 365 jours suivant celui où il est avisé par écrit de la décision de refus ou de liquidation;

**b)** elle est présentée par une personne qui demande pour la seconde fois la même prestation.

*Canada Pension Plan, RSC 1985, c C-8 / Régime de pensions du Canada, LRC 1985, ch C-8 :*

## **Reconsiderations and Appeals**

### **Appeal to Minister**

#### **81 (1) Where**

**(a)** a spouse, former spouse, common-law partner, former common-law partner or estate is dissatisfied with any decision made under section 55, 55.1, 55.2 or 55.3,

**(b)** an applicant is dissatisfied with any decision made under section 60,

**(c)** a beneficiary is dissatisfied with any determination as to the amount of a benefit payable to the beneficiary or as to the beneficiary's eligibility to receive a benefit,

**(d)** a beneficiary or the beneficiary's spouse or common-law partner is dissatisfied with any decision made under section 65.1, or

## **Révisions et appels**

### **Appel du ministre**

#### **81 (1) Dans le cas où :**

**a)** un époux ou conjoint de fait, un ex-époux ou ancien conjoint de fait ou leurs ayants droit ne sont pas satisfaits d'une décision rendue en application de l'article 55, 55.1, 55.2 ou 55.3,

**b)** un requérant n'est pas satisfait d'une décision rendue en application de l'article 60,

**c)** un bénéficiaire n'est pas satisfait d'un arrêt concernant le montant d'une prestation qui lui est payable ou son admissibilité à recevoir une telle prestation,

**d)** un bénéficiaire ou son époux ou conjoint de fait n'est pas satisfait d'une décision rendue en application de l'article 65.1,

(e) a person who made a request under section 70.1, a child of that person or, in relation to that child, a person or agency referred to in section 75 is dissatisfied with any decision made under section 70.1,

the dissatisfied party or, subject to the regulations, any person on behalf thereof may, within ninety days after the day on which the dissatisfied party was notified in the prescribed manner of the decision or determination, or within such longer period as the Minister may either before or after the expiration of those ninety days allow, make a request to the Minister in the prescribed form and manner for a reconsideration of that decision or determination.

e) la personne qui a présenté une demande en application de l'article 70.1, l'enfant de celle-ci ou, relativement à cet enfant, la personne ou l'organisme visé à l'article 75 n'est pas satisfait de la décision rendue au titre de l'article 70.1,

ceux-ci peuvent, ou, sous réserve des règlements, quiconque de leur part, peut, dans les quatre-vingt-dix jours suivant le jour où ils sont, de la manière prescrite, avisés de la décision ou de l'arrêt, ou dans tel délai plus long qu'autorise le ministre avant ou après l'expiration de ces quatre-vingt-dix jours, demander par écrit à celui-ci, selon les modalités prescrites, de réviser la décision ou l'arrêt.

*Canadian Pension Plan Regulations, CRC, c 385 / Règlement sur le Régime de pensions du Canada, CRC, ch 385 :*

## **Pensions and Supplementary Benefits**

### **Determination of Disability**

[...]

### **Request for Reconsideration**

**74.1 (1)** A request for a reconsideration under subsection 81(1) or (1.1) of the Act shall be made in writing to the Minister and shall set out

- (a) the name, address, and Social Insurance Number of the contributor;
- (b) if the person making the request for the reconsideration is not the contributor, that person's name and address and their relationship to the contributor; and

## **Pensions et prestations supplémentaires**

### **Détermination de l'invalidité**

[...]

### **Demande de révision**

**74.1 (1)** La demande de révision faite en vertu des paragraphes 81(1) ou (1.1) de la Loi est faite au ministre par écrit et contient les renseignements suivants :

- a) les nom, adresse et numéro d'assurance sociale du cotisant;
- b) si l'auteur de la demande n'est pas le cotisant, ses nom, adresse et lien avec le cotisant;

(c) the grounds for the request for the reconsideration and a statement of facts that form the basis of the request.

c) les motifs de la demande et un exposé des faits sur lesquels elle est fondée.

(2) If it appears to the Minister that the person making the request for a reconsideration has failed to provide information in accordance with any of the requirements of paragraphs (1)(a) to (c) — or has failed to provide sufficient information to allow the Minister to determine if there are circumstances that allow for a longer period in which to make the request — the Minister may take any steps to obtain the information that is necessary to rectify the failure.

(2) Le ministre peut, s'il lui apparaît que l'auteur de la demande de révision a omis de fournir certains des renseignements visés aux alinéas (1)a) à c) — ou n'a pas fourni les renseignements nécessaires pour lui permettre de décider s'il existe des circonstances justifiant l'autorisation d'un délai plus long pour présenter la demande — prendre les mesures nécessaires pour les obtenir et ainsi corriger l'omission.

[...]

[...]

(4) The Minister must also be satisfied that the request for reconsideration has a reasonable chance of success, and that no prejudice would be caused to the Minister or a party by allowing a longer period to make the request, if the request for reconsideration

(4) Dans les cas ci-après, le ministre doit aussi être convaincu que la demande de révision a des chances raisonnables de succès et que l'autorisation du délai supplémentaire ne lui porte pas préjudice ni d'ailleurs à aucune autre partie :

(a) is made after the 365-day period after the day on which the person is notified in writing of the decision or determination;

a) la demande de révision est présentée après 365 jours suivant celui où il est avisé par écrit de la décision ou de l'arrêt;

(b) is made by a person who has applied again for the same benefit; or

b) elle est présentée par une personne qui demande pour la seconde fois la même prestation;

(c) is made by a person who has requested the Minister to rescind or amend a decision under subsection 81(3) of the Act.

c) elle est présentée par une personne qui a demandé au ministre d'annuler ou de modifier une décision en vertu du paragraphe 81(3) de la Loi.

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-834-24

**STYLE OF CAUSE:** ARNOLD ABRAMOWITZ v ATTORNEY GENERAL  
OF CANADA

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** SEPTEMBER 10, 2024

**JUDGMENT AND REASONS  
FOR JUDGMENT:** TURLEY J.

**DATED:** NOVEMBER 8, 2024

**APPEARANCES:**

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ON HIS OWN BEHALF

Rebekah Ferriss

FOR THE RESPONDENT

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