



Canada Pension Plan Disability Applications & Appeals

Contents

Applying for Canada Pension Plan Disability.....	1
Reconsideration	1
Appeals to the Social Security Tribunal	1
Procedure.....	1
Hearings.....	2
Social Security Tribunal Appeal Division	2
Leave to Appeal	3
Procedure.....	3

January 1, 2014

<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

Applying for Canada Pension Plan Disability

An application kit for CPP Disability can be obtained by contacting Service Canada at **1-800-277-9914** office or found online at:

<http://www.hrsdc.gc.ca/cgi-bin/search/eforms/index.cgi?app=profile&form=isp1151&lang=eng>

This stage of the application process is purely paperwork, and it is likely that you will only meet with an applicant after their initial application has been denied.

At the initial application stage three documents are usually given the most consideration: the Application for Disability Benefits, the Questionnaire for Disability Benefits and the Medical Report.

Reconsideration

If an applicant's initial application for CPP Disability is denied they may request that that decision be reconsidered. A request for reconsideration must be made in writing **within 90 days** of the receipt of the letter indicating that the application was denied. The reconsideration stage is again an entirely paper process.

The initial denial letter will contain **extremely important** information. It will provide the applicant's MQP date as well as a brief explanation of why their application was denied. This letter should serve as your guide to the deficiencies of the applicant's initial application.

Appeals to the Social Security Tribunal

If an applicant's request for reconsideration is denied they have another chance to appeal to the new Social Security Tribunal (SST). The SST is composed of a general and appeal division. Within the general division there is an Income Security Section which will hear CPP Disability appeals.

The SST began hearing CPP Disability appeals as of April 1st, 2013. It replaced the Review Tribunal and the Pension Appeals Board which previously heard CPP Disability appeals.

All appeals before the SST General and Appeal Divisions will be heard by one member panels.

While the Social Security Tribunal is a new body it is still subject to the previous case law surrounding CPP Disability.

Procedure

Like at the Reconsideration stage an applicant has **90 days** from the receipt of the letter indicating that their reconsideration was denied to request an appeal to the Social Security Tribunal General Division.

Instructions on how to appeal a CPP disability denial, along with the required forms, can be found at the SST's website:

<http://www.canada.gc.ca/sst-tss/hta-cij/cppgendiv-divgenrpc-eng.html>

After an appeal is filed the government must provide the SST a package of documents which will include the initial application for CPP Disability and the government's response, the appellant's request for reconsideration and the government's response as well as any documents relevant to the government's decision on reconsideration, however it will only provide **one** copy. Therefore it is extremely important that you retain the copy of the documentation you receive from the SST.

Do not bind or tab any submissions to the SST, the tribunal will do this for you.

If at any point after receiving an appeal the SST determines that it has no reasonable chance for success they must summarily dismiss it. Before summarily dismissing an appeal the SST must give written notice to the appellant, and offer the appellant a reasonable period of time during which to make submissions to the SST.

Assuming summary dismissal is not an issue an appellant has 365 days, from the time they submitted their appeal, to submit further documentation or submissions in support of their appeal. At any time during the 365 day period the appellant may notify the SST that they have no further documentation or submissions to submit.

After the expiry of the 365 days, or the receipt of a notice that there is no further documentation being submitted, the SST must decide whether to make a decision based on the documentation before it or to hold a hearing.

Hearings

Hearings can either be in the form of written questions and answers or oral. Oral hearings can be via teleconference, videoconference or in person. If you want to have an oral hearing (which is the most desirable form of hearing) you **must** request an oral hearing from the time of filing your Notice of Appeal to the SST.

The SST will provide interpretive services as required.

If you intend on calling witnesses at your hearing you should advise the SST as early in the appeal process as possible. This is extremely important as having more witnesses will weigh in favour of having an oral hearing.

One adjournment will be granted without reasons, however any subsequent adjournments will require exceptional circumstances.

Social Security Tribunal Appeal Division

An appellant may appeal a decision of the SST to the appeal division **within 90 days** of the date the decision is communicated to them by the SST general division.

Leave to Appeal

Unlike at the SST general division an appellant must be granted 'leave to appeal' to the SST appeal division. Leave will only be granted in the following circumstances:

- i. the General Division failed to observe a principle of natural justice (i.e. the right to a fair hearing) or otherwise acted beyond or refused to exercise its jurisdiction;
- ii. the General Division erred in law in making its decision, whether or not the error appears on the face of the record; or
- iii. the General Division based its decision on an erroneous finding of fact that it made in an arbitrary manner or without taking into account the evidence before it.
- iv. The application for leave to appeal form to the SST Appeal Division can be found here:
<http://www.servicecanada.gc.ca/eng/common/sst-tss/forms-formulaires/SST-ATATTAD.pdf>

The one exception to the requirement to obtain 'leave to appeal' is a decision by the SST general division to summarily dismiss an appeal.

Procedure

Clients who wish to appeal to the SST Appeal Division should consult with a lawyer.

Any submissions in support of an appeal **must** be made within 45 days of leave to appeal being granted.

With certain exceptions, decisions of the SST appeal division can be judicially reviewed by the Federal Court of Appeal. Should a client wish to seek a judicial review they **should** consult a lawyer.

Applications for judicial review **must** be made within **30 days** of the decision being communicated to the appellant.

Acknowledgement

Dalhousie Legal Aid Service would like to gratefully acknowledge and thank the [Law Foundation of Ontario](#) for its financial support of LEAP.

Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

Laws change frequently. We will try our best to make sure the information contained in all of our documents, as well as any other information you receive from Dalhousie Legal Aid Service, is reliable. However, **we cannot guarantee that the information in this document is completely accurate and up-to-date.** By accessing information from Dalhousie Legal Aid Service you assume any risks that arise from doing so.