

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180913

Docket: A-215-17

Citation: 2018 FCA 165

**CORAM: NADON J.A.
STRATAS J.A.
BOIVIN J.A.**

BETWEEN:

LINDA BARTLETT

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Hearing held by Videoconference
Vancouver, British Columbia, on September 13, 2018.

Judgment delivered from the Bench at Vancouver, British Columbia, on September 13, 2018.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on September 13, 2018).

BOIVIN J.A.

[1] Ms. Linda Bartlett (the Applicant) applies before our Court for a judicial review of a decision of the Social Security Tribunal Appeal Division (Appeal Division) dated June 19, 2017 (AD-16-252). The Appeal Division granted the Minister of Employment and Social Development's appeal, and reversed the General Division decision. In rendering its decision, the Appeal Division at paragraphs 29 to 35 of its decision found facts that led to the conclusion that

section 49 of the *Canada Pension Plan*, R.S.C., 1985, c. C-8 (the CPP) – and not section 44 of the CCP - applies for the purpose of calculating the Applicant's retirement pension contributory period. The Appeal Division thus confirmed that the Applicant's contributory period was 79 months rather than 75 months.

[2] The sole issue before our Court is to determine whether or not the Appeal Division decision based primarily on the Applicant's circumstances is reasonable.

[3] We are all in agreement that it was reasonable for the Appeal Division, in interpreting its home statute, to apply section 49 of the CPP to calculate the contributory period in the context of a retirement pension.

[4] Further, in the circumstances, it was open to the Appeal Division to refuse to hear new evidence, as a hearing before the Appeal Division does not amount to a *de novo* hearing and we have not been convinced that the Appeal Division ignored pertinent evidence.

[5] For these reasons, the application for judicial review will be dismissed without costs.

"Richard Boivin"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-215-17

STYLE OF CAUSE: LINDA BARTLETT v.
ATTORNEY GENERAL OF
CANADA

HEARING HELD IN VANCOUVER BY VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 13, 2018

REASONS FOR JUDGMENT OF THE COURT BY: NADON J.A.
STRATAS J.A.
BOIVIN J.A.

DELIVERED FROM THE BENCH BY: BOIVIN J.A.

APPEARANCES:

Linda Bartlett FOR THE APPELLANT
(ON HER OWN BEHALF)

Sylvie Doire FOR THE RESPONDENT

SOLICITORS OF RECORD:

Nathalie G. Drouin FOR THE RESPONDENT
Deputy Attorney General of Canada