

**Date: 20080401**

**Docket: A-533-06**

**Citation: 2008 FCA 116**

**CORAM: LÉTOURNEAU J.A.  
EVANS J.A.  
RYER J.A.**

**BETWEEN:**

**MARY J. GILROY**

**Applicant**

**and**

**THE ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Halifax, Nova Scotia, on April 1, 2008.

Judgment delivered from the Bench at Halifax, Nova Scotia, on April 1, 2008.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**EVANS J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Halifax, Nova Scotia, on April 1, 2008)**

**EVANS J.A.**

[1] This is an application for judicial review by Mary Gilroy to set aside a decision of the Pension Appeals Board, dated June 19, 2006. In that decision, the Board unanimously upheld the dismissal by the Minister of Social Development of Ms. Gilroy's application for a disability pension under the *Canada Pension Plan*, R.S.C. 1985, c. C-8.

[2] In her oral submissions to the Court, Ms. Gilroy, who represented herself, explained that her medical condition had deteriorated since December 2004, when she last met the minimum qualifying period under the *Plan*, and that she is now in constant pain and is unable to work.

However, as we explained to Ms. Gilroy, the Court has a limited function on an application for judicial review: to determine whether the Board made any reviewable error on the evidence before it concerning the severity of her disability at the end of December 2004. Accordingly, the Court refused to admit a medical report which “updated” her medical history subsequent to the Board’s decision.

[3] The Board carefully reviewed the various medical reports before it, and we are not persuaded that it committed any reviewable error when it concluded on the basis of the evidence that Ms. Gilroy’s disability was not “severe” within the meaning of paragraph 44(2)(a) of the *Plan* at the end of December 2004. Indeed, when the Court asked Ms. Gilroy whether she could point to any evidence before the Board indicating that she was unable to undertake any kind of employment at the end of 2004, she admitted that she could not.

[4] We would emphasise that, in reaching this decision we are very sympathetic to Ms. Gilroy’s medical problems and do not doubt that she is experiencing serious limitations on her quality of life. Unfortunately for her, as we explained, it is not the function of the Court in these proceedings to determine her eligibility for a disability pension on the basis of her current medical condition.

[5] For these reasons the application will be dismissed: costs were not requested and are not awarded.

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"John M. Evans"

J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-533-06

**STYLE OF CAUSE:** MARY J. GILROY v. THE  
ATTORNEY GENERAL OF  
CANADA

**PLACE OF HEARING:** Halifax, Nova Scotia

**DATE OF HEARING:** April 1, 2008

**REASONS FOR JUDGMENT  
OF THE COURT BY:** LÉTOURNEAU J.A.  
EVANS J.A.  
RYER J.A.

**DELIVERED FROM THE BENCH BY:** EVANS J.A.

**APPEARANCES:**

Mary J. Gilroy FOR THE APPLICANT

Jacques-Michel Cyr FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Mary J. Gilroy FOR THE APPLICANT  
Self-represented

John H. Sims, Q.C. FOR THE RESPONDENT  
Deputy Attorney General of Canada