

Federal Court of Appeal



Cour d'appel fédérale

Date: 20190411

Docket: A-146-18

Citation: 2019 FCA 75

**CORAM: WEBB J.A.
BOIVIN J.A.
RENNIE J.A.**

BETWEEN:

BOGDAN KOSCIK

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard at Toronto, Ontario, on April 10, 2019.

Judgment delivered at Toronto, Ontario, on April 11, 2019.

REASONS FOR JUDGMENT BY:

BOIVIN J.A.

CONCURRED IN BY:

**WEBB J.A.
RENNIE J.A.**

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REASONS FOR JUDGMENT

BOIVIN J.A.

[1] This is an application for judicial review of a decision of the Social Security Tribunal Appeal Division (the Appeal Division) dated April 3, 2018 (Tribunal File Number: AD-17-297). The Appeal Division dismissed the applicant's appeal from a decision of the Social Security Tribunal General Division (the General Division). The General Division had previously

dismissed the applicant's appeal from the determination that he was ineligible for a Canada Pension Plan (CPP) disability pension (Tribunal File Number: GP-16-2705).

[2] I am of the view that it was reasonable for the Appeal Division to determine that the analysis of the General Division was not based on an erroneous finding of fact made in a perverse or capricious manner or without regard to the material before it. The applicant has not convinced me that the Appeal Division erred in that regard.

[3] It was also reasonable for the Appeal Division to conclude that the fact that the applicant qualified for Employment Insurance sickness benefits does not necessarily indicate that he is eligible for a CPP disability pension because the benefits serve different purposes and the legal tests are also different. Further, the legal test and objectives applied in the context of a criminal sanction against impaired driving are also different from the legal test and objectives of the CPP benefits. The cases cited by the applicant do not support the unreasonableness of the Appeal Division's decision.

[4] Although I have sympathy for the applicant's situation, I see no basis for this Court's intervention. Therefore, the application for judicial review of the Appeal Division's decision should be dismissed without costs.

“Richard Boivin”

J.A.

“I agree
Wyman W. Webb J.A.”

“I agree
Donald J. Rennie J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-146-18

STYLE OF CAUSE: BOGDAN KOSCIK v. THE
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: APRIL 10, 2019

REASONS FOR JUDGMENT BY: BOIVIN J.A.

CONCURRED IN BY: WEBB J.A.
RENNIE J.A.

DATED: APRIL 11, 2019

APPEARANCES:

Bogdan Kosciik FOR THE APPLICANT
(ON HIS OWN BEHALF)

Marcus Dirnberger FOR THE RESPONDENT

SOLICITORS OF RECORD:

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