

MINUTES OF SETTLEMENT

BETWEEN:

████████████████████

and

ATTORNEY GENERAL OF CANADA

(Hereinafter referred to as “the Parties”)

WHEREAS on December 15, 2017, Service Canada received ██████████ (hereinafter “the Applicant”) application for a *Canada Pension Plan*, RSC, 1985, c C-8 (*CPP*) disability pension;

WHEREAS on May 31, 2018, Service Canada informed the Applicant that CPP cannot pay her a disability pension because her application did not show that her disability was both severe and prolonged before her Minimum Qualifying Period (MQP) of December 2017;

WHEREAS on June 11, 2018, Service Canada received the Applicant’s request that it reconsider its initial decision to deny her a CPP disability pension;

WHEREAS on August 30, 2018, Service Canada issued its reconsideration decision, confirming that it cannot pay the Applicant a CPP disability pension because her application did not show that her disability was both severe and prolonged before her Minimum Qualifying Period (MQP) of December 2017;

WHEREAS on September 25, 2018 the Applicant appealed the reconsideration decision dated August 30, 2018 to the General Division of the Social Security Tribunal (hereinafter “the General Division”);

WHEREAS on August 27, 2019, the General Division dismissed the Applicant’s appeal, following an in person hearing on August 6, 2019. The General Division determined that the Applicant is not entitled to a CPP disability pension because she did not prove a severe disability that renders her incapable regularly of pursuing any substantially gainful occupation;

WHEREAS on November 11, 2011 the Applicant made an application to rescind or amend the General Division's decision dated August 27, 2019. The Applicant argued that a Catastrophic Determination Assessment dated October 3, 2019 established a new material fact which warranted amending or rescinding the General Division's decision;

WHEREAS on February 19, 2020 the General Division dismissed the Applicant's application to rescind or amend the General Division's decision dated August 27, 2019;

WHEREAS on March 23, 2020 the Applicant filed an application for leave to appeal the General Division's decision dated February 19, 2020;

WHEREAS on April 22, 2020 the Appeal Division granted the Applicant leave to appeal the General Division's decision dismissing her application to rescind or amend on all of the grounds raised in the Applicant's request for leave to appeal;

WHEREAS on July 28, 2020 the Appeal Division dismissed the Applicant's appeal on the basis that the General Division did not err when it found that the Applicant had not established a new material fact to warrant reopening the decision of August 27, 2020;

WHEREAS on August 19, 2020 the Applicant served and filed a Notice of Application for Judicial Review with the Federal Court of Appeal seeking judicial review of the July 28, 2020 decision of the Appeal Division;

WHEREAS on November 20, 2020 the Applicant served and filed a Motion Record for an order extending the time for service and granting the Applicant leave to file the Affidavit and Supplementary Affidavit of [REDACTED], the Affidavit of Dr. Leslie Kiraly, the Affidavit of Tazmeen Lalani, and the Affidavit of Pamela Rowatt;

WHEREAS exhibit J of the Affidavit of Pamela Rowatt attached a Catastrophic Determination Assessment report dated March 20, 2020, completed by CIRA, which confirmed the conclusion in the first Catastrophic Determination Assessment dated October 3, 2019 about the presence of catastrophic impairment following the MVC in January 2015 and adaptation difficulties;

WHEREAS the Respondent has deemed the Applicant disabled as of September 2016, until she is no longer eligible to receive a CPP disability pension pursuant to the *CPP*;

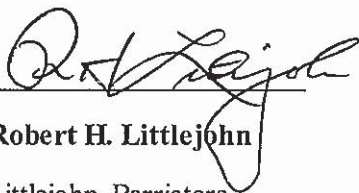
AND WHEREAS the Parties have reached an agreement in full and final settlement of any claims respecting the Applicant's December 15, 2017 application for a *CPP* disability pension and the payment periods contained therein and any other matters described in these Minutes of Settlement;

AND WHEREAS the Applicant's counsel, Mr. Robert Littlejohn participated in telephone discussions with the Department of Employment and Social Development on December 18, 2020 and further on December 21, 2020 at which time the Parties also agreed that this further and final remedial action provided by the Minister through these Minutes of Settlement is appropriate to address all of the Applicant's concerns in relation to any matter arising out of the Applicant's December 15, 2017 application.

THE PARTIES HAVE AGREED AS FOLLOWS:

1. The Respondent agrees to pay the Applicant a disability pension as of January 2017 in accordance with section 69 of the *CPP* based on a deemed disability date of September 2016 in accordance with section 42(2)(b) of the *CPP*.
2. The Parties agree to have the Applicant's application for judicial review in the Federal Court of Appeal (A-201-20) held in abeyance until the Applicant receives a letter from Service Canada confirming her entitlement to a *CPP* disability pension.
3. In consideration of this agreement and for the payment of the aforementioned disability pension, the Applicant agrees to discontinue her application for judicial review in the Federal Court of Appeal (A-201-20) by fully and properly executing a Notice of Discontinuance (Form 166 of the *Federal Courts Rules*) and filing the same with the Federal Court of Appeal within ten (10) days of receipt of the confirmation specified in paragraph 2.

Executed this 23rd day of December
2020, in Barrie, Ontario



Robert H. Littlejohn

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Counsel for the Applicant

Executed this 23 day of December 2020, in
Upper Coverdale, New Brunswick



Hilary Perry

Attorney General of Canada
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Counsel for the Respondent

