

Federal Court of Appeal
TARIQ AHSANI v ESDC

FORM 301- Rule 301

NOTICE OF APPLICATION

(General Heading - Use Form 66)

Court Seal

NOTICE OF APPLICATION

F I L E D	Federal Court of Appeal Mar 10, 2023	D E P O S E
Wayne Sawtell		
OTT	1	

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at (place where Federal Court of Appeal (or Federal Court) ordinarily sits).

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

10-03-2023

Issued by: Registry Officer

Address of local office: 90 Sparks St., Ottawa, ON K1A 0H9

TO: Minister of Employment and Social Development

Canada Pension Plan, Disability

Name and address of every other person required to be served

APPLICATION

(Where the application is an application for judicial review)

This is an application for judicial review in respect of

Social Security Tribunal of Canada Appeal Division

Decision by Member Neil Nawaz, dated February 9, 2023

File Number AD-22-368

The applicant makes application for:

To set aside the dismissal of my appeal against the CPPD ruling that I ceased to be disabled in 2008.

The grounds for the application are:

- (1) Decision relies on inaccurate understanding of anecdotal evidence regarding my health between 2008-2017, instead of contextual analysis of medical data.
(2) Definition of "substantially gainful income" adopted by CPP in 2014, should be used by CPPD in evaluating incomes in all cases in decisions made after 2014. The application of 2014 definition should be retroactive.
(3) As CPPD claims in its public documents and in its response to the Auditor General, it should actually practice its Adjudication Framework guidelines, at least not violate them, and claim they are not "legally binding."
(4) Co-existing medical condition, PTSD, was not evaluated by CPPD and Neil Nawaz decision is silent on that. This is a requirement under *Bungay v Canada* (Attorney General), 2011 FCA 47.
(5) I request evidence of severity in my medical history be evaluated in the light of interpretation of severity in *Villani v. Can. (A.G.)* (2001), 275 N.R. 524 (FCA).

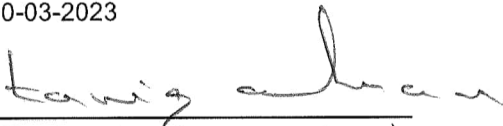
This application will be supported by the following material:

All documents on record on Social Security Tribunal General Division File No. GP-20-603, and Social Security Tribunal Appeal Division File AD-22-368.

(If the applicant wishes a tribunal to forward material to the Registry, add the following paragraph:)

The applicant requests Social Security Tribunal Appeal Division to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the tribunal to the applicant and to the Registry: My reply to AD9 - 1 SST/TSS REC: JA 31 2023 submitted on same day in which I pointed important factual error by Counsel to the Minister.

10-03-2023



(Signature of solicitor or applicant)

Name of Applicant: Tariq Ahsan. Address: 6196 Arbourwood Dr. Ottawa, Ontario, K1C 7L5. Telephone: 613-406-5416. Email: tariq.527@gmail.com

Summary Attachment to Notice of Appeal

Name Tariq Ahsan

Address: 6196 Arbourwood Dr.

Ottawa, Ontario

K1C 7L5

Attached to Form 301,

Notice of Application

Summary of grounds of Application:

I will argue:

(1) Decision relies on inaccurate understanding of anecdotal evidence regarding my health between 2008-2017, instead of contextual analysis of medical data.

For example, Member Nawaz quotes my Doctor expressing satisfaction with my condition on Jan.6, 2010 (Decision, AD-22-368 para24), but ignores that my rheumatologist, who normally saw me only once a year, saw me again just a month later on Feb 24, 2010, as my arthritis had deteriorated, and I remained ill throughout the year and as record shows, my physicians noted my medications were not working, and they sought to prepare me to take biologics. (GD2-296). He notes x rays revealed "corrosive changes in hands, wrists, and feet." In assessment, he wrote: "this gentleman has smouldering arthritis which is damaging his joints." Dr. Thomson referred me to the infectious disease clinic, where they treated me for "latent TB," which is a standard practice to prepare a patient for treatment with biologics. Member Nawaz not only misses this point, but assumes I was assessed for potential TB infection "following a trip abroad." I never left Canada during the period from 2008 to the present. He ignores that I remained very ill throughout the year 2010, and did not work full time, or make income above the substantially gainful level that year. Similarly, regarding my illness in 2014, he notes that it was an "isolated infection." (DecisionAD-22-368, para26). In actual fact, this was the first episode of recurring infections in the same elbow, that lasted until March 2016. (GD-2-353). I have summarized this series of illnesses in my presentation at the General Division hearing. (AD-22-368).

(2) I request a ruling that definition of "substantially gainful income" adopted by CPP in 2014, should be used by CPPD in evaluating incomes in all cases in decisions made after 2014. The application of 2014 definition should be retroactive.

(3) As CPPD claims in its public documents and in its response to the Auditor General, it should actually apply its Adjudication Framework guidelines, at least not violate them, and claim they are not "legally binding."

Please see: Service Policy Branch, "EVALUATION OF CANADA PENSION PLAN – DISABILITY Report" November 2021 Cat. No. : Em20-155/2022E-PDF ISBN: 978-0-660-42469-9) (2019) and

2015 Reports, the Auditor General of Canada, in Report-6, on Canada Pension Plan Disability Program

(4) Co-existing medical condition, PTSD, was not evaluated by CPPD and Neil Nawaz decision is silent on that. This is a requirement under Bungay v Canada (Attorney General), 2011 FCA 47.

(5) I request evidence of severity in my medical history be evaluated in the light of interpretation of severity in Villani v. Can. (A.G.) (2001), 275 N.R. 324 (FCA).

Re- last section of Notice of Application, I wish to not that

At AD9 - 1 SST/TSS REC: JA 31 2023, ECDC Minister's Counsel, Joshua Toews says:

"At AD8-9, he refers to a website on the clinical disease activity index." *The claim is that this reference did not appear in the original General Division record.*

This assertion is false. This reference was part of the record of the General Division File No. GP-20-603, and appears at GD-19-3. I corrected the error on the same day and sent it to the Appeal Division of the Social Security Tribunal, but have not received notification of its receipt. I would like the Appeal Division to provide this to the Federal Court of Appeal.

Sincerely,
Kernig Alwan
10-03-2023