



**Application to Re-open a Decision of a
Review Tribunal under subsection 84(2)**

Name: _____

Social Insurance Number (SIN): _____ - _____ - _____

I am sending the following documents and ask that the Tribunal's decision be re-opened.

Date of Document	Description of Document	Document Prepared By

If you require more space, please attach it to this application.

Name of Appellant: _____

Social Insurance Number: ____ - ____ - ____

To help the Tribunal understand why the additional information should be considered as "new facts", please answer the following two questions:

"New Facts" test: see attached information sheet

1. Explain why the additional information was **not** submitted to the Review Tribunal during your hearing.

2. How does this additional information show that you are disabled according to the Canada Pension Plan?

Signature

Date



**Making an Application to Re-open a Decision of
a Review Tribunal under Subsection 84(2)**

Once a Review Tribunal renders a decision on an appeal, that decision becomes final and binding.¹ The only way to have a Review Tribunal decision changed is to

- 1) successfully appeal to the Pension Appeals Board; or
- 2) successfully demonstrate, on a re-opening of the Review Tribunal decision, that you have "New Facts" and that you satisfy the other eligibility criteria for the benefit you claim.

If you have additional information that was not before the Review Tribunal at the time of your hearing, you may request that this information be used to re-open the Review Tribunal's decision. An application form for making this request is available on our website or can be obtained by calling our office free of charge at 1-800-363-0076.

What are "New Facts"?

There is no definition in the *Canada Pension Plan* as to what constitutes "New Facts". However, the [Pension Appeals Board](#) and the Federal Court of Canada ([Trial](#) and [Appeal Divisions](#)) have provided us with guidance as to the meaning of "New Facts". In order for information to be considered as "New Facts" it must meet the following two-part test:

"NEW FACTS" TEST:

First, the evidence must not have been discoverable before the original hearing by the exercise of reasonable diligence,² and

Second, there must be a reasonable possibility as opposed to probability that the evidence, if admitted, could lead the Review Tribunal to change its original decision.³

Note: these decisions are available on our website or by telephone request to our office.

¹ [Section 84\(1\) of the Canada Pension Plan](#)

² *Gary Leonard v. MHRD* (March 17, 1998) CP 03893, [Pension Appeals Board](#)

³ [Mian v. The Attorney General of Canada 2001 FCT 433](#)

What happens when you request a re-opening of the Tribunal's decision?

Our office will arrange for a Review Tribunal to be constituted to review the additional information. The Review Tribunal will also have the materials that were presented at the original hearing. Wherever possible, the 3 members of the Review Tribunal will be the same 3 members who sat for your original hearing. We will ask you whether you would like to attend in person to present your additional information. If you would like to attend we will schedule a hearing at a location that is convenient to all parties. If you do not feel it is necessary for you to attend in person, the Review Tribunal will review this additional information in your absence. In either event our office will send you the Tribunal's decision in writing.

How do I prove I am disabled?

To receive a disability benefit, you must meet the requirements of the *Canada Pension Plan* legislation. In addition to proving that your disability is both severe⁴ and prolonged⁵ as defined in Section 42 of the *Canada Pension Plan*, you must also establish that you meet the contributory requirements of the *Canada Pension Plan*. Your Minimum Qualifying Period will be determined according to the number of valid years of contributions you have made to the *Canada Pension Plan*. Your Minimum Qualifying Period is the date by which you must be found disabled. It is, therefore, important for you to ensure that the additional information you send us relates to your medical condition as of or before your Minimum Qualifying Period date. Please call our office if you have any questions.

What happens if the Review Tribunal determines that your additional information does not meet the test for "New Facts"?

If the Review Tribunal determines that the additional information does not meet the test for "New Facts", you may apply, in accordance with Section 18.1 of the Federal Court Act, for judicial review to the Federal Court of Canada – Trial Division. You have 30 days from the date of receipt of the Review Tribunal's decision to apply to the Federal Court, although the Court has the discretion to extend that time period.

There is no right of appeal to the Pension Appeals Board if the Review Tribunal determines that the additional information does not meet the test for "New Facts"⁶. However, you do have the option of asking for an extension of time to appeal the original Review Tribunal's decision to the Pension Appeals Board. The decision to grant Leave to Appeal rests with the Pension Appeals Board. For more information about this procedure, please call them free of charge at 1-888-640-8001.

⁴ According to [Section 42\(2\)\(a\)\(i\) of the CPP](#) a disability is severe only if by reason thereof the person in respect of whom the determination is made is incapable regularly of pursuing any substantially gainful occupation.

⁵ According to [Section 42\(2\)\(a\)\(ii\) of the CPP](#) a disability is prolonged only if it is determined in prescribed manner that the disability is likely to be long continued and of indefinite duration or is likely to result in death.

⁶ [Maria Oliveira v. MHRD 2004 FCA 136](#)