

[2018] NZSSAA 13

Reference No. SSAA 13/17

**IN THE MATTER** of the Social Security Act 1964

**AND**

**IN THE MATTER** of an appeal by **XXXX** of **XXXX**  
against a decision of a Benefits  
Review Committee

## **BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY**

**S Pezaro** - Deputy Chair

**K Williams** - Member

**C Joe** - Member

### **DECISION**

#### **Background**

- [1] XXXX (the appellant) appeals the decision on 24 August 2016 (upheld by a Benefits Review Committee) to establish and seek repayment of Accommodation Supplement for the period 24 February 2016 to 26 July 2016. The Chief Executive cancelled the appellant's Accommodation Supplement as he failed to notify the Ministry of his change of circumstances which included a reduction in his accommodation costs.
- [2] XXXX is represented in these proceedings by Jean Seymour-Huggett as his lay representative. On 2 February 2017 Ms Seymour-Huggett filed the notice of appeal. She attached a supporting letter from the appellant's doctor stating that because of health problems and the stress of moving he was confused and had not notified of the change in his circumstances. The only information filed since the notice of appeal is a medical certificate to show that the appellant was in hospital from 12 to 15 September 2017.
- [3] The directions issued by the Authority in August and December 2017, and February 2018, record the difficulty the Authority had communicating with either Ms Seymour-Huggett or XXXX and their failure to comply with timetables.
- [4] Following a telephone conference convened by the Deputy Chair which Ms Seymour-Huggett attended, a direction was issued on 7 December 2017.

This direction recorded that Ms Seymour-Huggett said that XXXX was not well enough to attend the hearing and that she was offered the opportunity to have the appeal decided on the basis of written submissions, in which case no appearance is required. However, Ms Seymour-Huggett requested an in-person hearing.

- [5] A timetable was set for XXXX to respond to the Ministry's report and a date of hearing. No response or any further information has been submitted for the appellant within this timetable. The appellant has not challenged any aspect of the Ministry's report.
- [6] The Deputy Chair therefore directed that, unless it was confirmed that there would be a personal appearance for the appellant at the hearing, this appeal would be determined on the papers.
- [7] No such confirmation has been received from the appellant or his representative. Therefore we have determined the appeal on the basis of the written submissions and evidence of both parties.

### **Discussion**

- [8] From 26 February 2013 the appellant was paying weekly board of \$260 and receiving an Accommodation Supplement. On 7 August 2015 he was granted New Zealand Superannuation (NZS). His NZS was paid at the single sharing rate because he was living with his sons. He was advised at that time that if his accommodation costs changed he needed to notify the Ministry.
- [9] On 27 July 2016 the appellant completed a change of address/accommodation costs form. He declared that he had moved into Council accommodation in XXXX on 24 February 2016 and was paying a weekly rent of \$90. This weekly rent was below the threshold of \$94 for an accommodation supplement. The appellant stated that he had not advised the Ministry about his change of accommodation because he had health problems.
- [10] The Ministry therefore reviewed the appellant's entitlement to an accommodation supplement and established an overpayment of \$1,132.57 for the period 24 February 2016 to 26 July 2016. An arrangement was made to deduct \$5 per week from his NZS.

- [11] The Ministry reduced the amount of the overpayment when it prepared its Section 12K Report because it accepted that the appellant first made contact on 15 July 2016 so reversed the overpayment established for the period between 15 and 26 July 2016. As a result the overpayment was \$1,045.14, which at the time the report was written was reduced to \$332.86 by the payments deducted from the appellant's NZS. The Ministry states that without a budget or any information on the appellant's financial circumstances it cannot see any basis to either deferring payment or reducing the rate of repayment.
- [12] The appellant does not dispute the amount calculated by the Ministry as an overpayment nor the threshold for entitlement to Accommodation Supplement.

### **Discussion**

- [13] Section 61DH of the Social Security Act 1964 establishes an Accommodation Supplement to provide targeted financial assistance to certain people with high accommodation costs. When the appellant was granted an Accommodation Supplement he was advised that he must notify immediately any changes in his circumstances that could affect his entitlement to this payment.
- [14] The appellant was in receipt of a benefit intermittently before he qualified for NZS. He would have received numerous notices informing him that he needed to advise of any change in circumstances. Even if we accept that the move from XXXX to XXXX was disruptive, and the appellant was unable to notify WINZ of his change in circumstances immediately, any delay by the appellant in notifying the Ministry of his reduced accommodation costs does not change the fact that he lost his entitlement to Accommodation Supplement once his rent dropped below the threshold.
- [15] The appellant has not provided any information that satisfies us that he was either unaware that he needed to notify the change in his accommodation costs or was unable to do so.
- [16] For these reasons we find that the appellant was overpaid by the sum of \$1,045.14 for accommodation supplement between 24 February 2016 and 15 July 2016.

**Order**

[17] The Ministry is entitled to recover from the appellant any outstanding balance on the overpayment of \$1,045.14.

**Dated at Wellington** this 7<sup>th</sup> day of March 2018

**S Pezaro**  
Deputy Chair

**K Williams**  
Member

**C Joe JP**  
Member