

[2018] NZSSAA 17

Reference No. SSAA
106/17

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

Mr G Pearson - Chairperson

Mr K Williams - Member

Mr C Joe - Member

Hearing at Wellington on 14 March 2018

Appearances

No appearance by or on behalf of the appellant

For Chief Executive of the Ministry of Social Development: Mr Wild

DECISION

The Issues

[1] When the hearing for this matter was convened on 14 March 2018, the appellant did not attend the hearing.

[2] Prior to the hearing the Authority issued Directions dated 14 December 2017. Those Directions identified that the notice of appeal raised four issues. The Ministry accepted that there were two issues that were then live, namely a decision to decline assistance for clothing and a decision to decline assistance for work boots and the alteration of clothing.

- [3] The Ministry identified a third issue decided by the Benefits Review Committee which was not within the Authority's jurisdiction due to the principles discussed in *Bocxe v Chief Executive of the Ministry of Social Development* [2008] NZHC 2606. A fourth issue identified by the Ministry related to a point that had been resolved in the appellant's favour by the Benefits Review Committee.
- [4] In the Directions, the Authority indicated that the Chief Executive should prepare a Section 12K Report addressing the two live issues, namely assistance for clothing and assistance for work boots and the alteration of clothing. It notified the appellant he could pursue any further issues at the hearing if he did not consider that the Section 12K Report addressed all the matters this Authority could and should determine.
- [5] On 15 February 2018, the Authority issued further Directions. That followed a telephone conference, which the appellant failed to attend. Those Directions confirmed the two live issues identified in the previous Directions and notified XXXX that there did not appear to be any other live issues.
- [6] Shortly before the hearing XXXX issued a document styled "Notice of Appeal". XXXX identified that the appeal was "filed on the grounds" of:
- [6.1] Abuse of process by Work and Income staff.
 - [6.2] Contravening statute (Social Security Act 2016¹, 1964, 1938).
 - [6.3] False statements by Ministry representatives.
 - [6.4] Failure to enforce Direction issued by Authority.
 - [6.5] Deliberate abuse of process by Crown overseeing appeals process.
 - [6.6] Harassment by Crown.

¹ There is no such Act, there is a rewrite Bill of 2016.

- [7] It is not clear from the face of the “Notice of Appeal” what it relates to. The document lacked particulars. However, we infer the document was intended to be submissions in this present appeal, as it is headed with the same reference number as the present appeal. The document makes various allegations that are entirely without proof, such as the agent for the Ministry made false statements, the Crown is engaging in a premeditated litigation plan which is abusive, a Judge of the High Court had deliberately breached the New Zealand Bill of Rights Act 1990, a Registrar of the High Court had deliberately breached the High Court Rules 2016 and the Social Security Act 1964 no longer applies as it has been replaced by the Social Security Act 2016.
- [8] The “Notice of Appeal” is completely unsupported by any factual material and on its face, appears to be both almost entirely irrelevant to the present appeal and founded on a lack of understanding of the relevant legal issues.

The Hearing

- [9] As the appellant failed to attend the hearing it was not possible to gain any further understanding of what the appellant’s real concerns were.
- [10] For the Ministry Mr Wild said that since the appeal had been lodged the Ministry had received further information from the appellant and on that basis, had provided what he understood was financial assistance for work boots and the alteration of clothing. He understood the appellant agreed with the nature and extent of that support for those items. On that basis Mr Wild understood that the only matter that had not been resolved was assistance for additional clothing. Of course, the appellant, based on his “Notice of Appeal” filed shortly before the hearing and his original Notice of Appeal, appeared to have wider concerns. However, the Authority had put the appellant on notice that in its view there were only two live issues. It now understands the Ministry has conceded one of them; so only one of those issues remains outstanding. The Authority made it clear to the appellant that if he wished to argue wider issues than those the Authority understood were live, then he should attend the hearing and present his case. He has not done so.

Discussion

- [11] It appears the only live issue in the appeal is a decision to decline assistance for additional clothing. The Ministry's position was that the appellant had sought an annual clothing allowance, of an unknown amount.
- [12] The Ministry's position, which was consistent with the Benefits Review Committee's position, was that the appellant had met the needs for his clothing from his own resources and there was no automatic annual non-recoverable allowance for clothing for beneficiaries. It was a cost that was provided for in the rates set for benefits the appellant was receiving.
- [13] There is no apparent challenge presented by the appellant to the Ministry's position.
- [14] The Ministry identified the only potentially relevant non-recoverable assistance under the Social Security Act 1964 was the special needs grant welfare programme. It provides for non-recoverable grants to be made where the Chief Executive is satisfied that an emergency situation exists which has given rise to an immediate need. There is nothing in the material before the Authority that could justify a special needs grant.
- [15] None of the other issues raised appear to be current contentious issues between the appellant and the Chief Executive or lie within the jurisdiction of this Authority. Further, there is no proof of the factual allegations the appellant relied on to support the further grounds.

Decision

- [16] The appeal is dismissed.

Dated at Wellington this 26th day of March 2018

G Pearson
Chairperson

K Williams
Member

C Joe JP
Member