

[2015] NZSSAA 016

Reference No. SSA 082/14

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

Ms M Wallace - Chairperson
Mr K Williams - Member

DECISION ON THE PAPERS

Introduction

[1] The appellant appeals against a decision of the Chief Executive upheld by a Benefits Review Committee to pay the appellant Living Alone Payment from 9 May 2011 rather than from 9 January 2008.

Background

[2] The appellant was first granted New Zealand Superannuation including Living Alone Payment from 1 December 2005.

[3] At the end of 2007, the Ministry sought to review the appellant's receipt of Living Alone Payment. He was asked to complete and return an annual review form. The form was not returned and Living Alone Payment was suspended on 29 December 2007 and subsequently cancelled on 9 January 2008. This resulted in a reduction in the payments paid to the appellant. Correspondence regarding this matter was sent to the appellant at 23 Harvey Street, Greerton, Tauranga, 3001.

[4] An invitation to the appellant to apply for Living Alone Payment again was sent to him at **XXXX** Street, **XXXX**, Tauranga, **XXXX** on 28 December 2009. Ministry records indicate this letter was returned stating "no such number".

[5] On 8 May 2011, in the course of an interview at the Ministry's offices, it became apparent that the appellant had changed his address and had not advised the Ministry. The appellant also advised that he had not received the review form in 2007/2008 and that he had always lived alone.

[6] As a result of further contact between the appellant and the Ministry, the appellant's entitlement to Living Alone Payment was reviewed and a decision was made to pay him Living Alone Payment, initially from 2 September 2013. At a later date it was decided to make the payment to him from 9 May 2011, that being the date the appellant had been in touch with the Ministry and provided up-to-date

information about his address. Arrears of Living Alone Payment were paid to the appellant for the period 9 May 2011 to 1 September 2013.

[7] The appellant requested that Living Alone Payment for the period 2008 to 2011 be reinstated on the basis that the Ministry sent the correspondence regarding his annual review, and reminder letter and notice of suspension of Living Alone Payment to the wrong address.

[8] The appellant says that he lived at XXXX Street, XXXX, Tauranga, XXXX for 20 years prior to 2008. He has never lived in XXXX and it appears that the postcode "3001" was incorrect. Moreover, he says he is the only person with his initial and surname listed in the phone book for his area and no attempt was made to contact him by phone. The appellant considers that the use by New Zealand Post of the term "no such number" points out that the address detail was incorrect as opposed to the "gone/no forwarding address" notation.

[9] On behalf of the Chief Executive it is submitted:

- (i) That the Ministry was unable to confirm that the appellant still met the criteria for Living Alone Payment when he failed to return his annual review form.
- (ii) The letters sent to the appellant were sent to the correct address. The postcode for the appellant's address changed in 2008 from 3001 to 3112.
- (iii) The appellant took no steps to contact the Ministry when his payments reduced in 2008.
- (iv) The appellant did not advise the Ministry of his change of address.

Decision

[10] The Chief Executive is entitled to review a benefit from time to time to ensure that the beneficiary is being paid at the correct rate. It was not inappropriate to review the appellant's entitlement to Living Alone Payment in 2007/2008.

[11] We do not think that anything turns on the fact that correspondence sent to the appellant in 2007 was addressed to XXXX Street, XXXX, Tauranga, XXXX. It seems likely that this postcode was correct until December 2007 and the street number, the name and postcode ought to have ensured delivery. The letters were apparently not returned to the Ministry. We do not think that the Ministry had any obligation in these circumstances to attempt to contact the appellant by telephone as suggested. In fact, the obligation was on the appellant to inform the Ministry of his change of address and he did not do so. Had he advised of his change of address at the time that he shifted, then at the very least the invitation to him to apply for Living Alone Payment in December 2009 would have been directed to the correct address. We also note it is surprising that the appellant did not enquire about the reduction in his income if he was dependent on it.

[12] Faced with a lack of response to the correspondence at the end of 2007 when the Ministry sought to review the appellant's entitlement to Living Alone Payment, it was appropriate for the Ministry to suspend the appellant's Living Alone Payment and subsequently cancel it. It is possible that the sending of the letter coincided with the

appellant being about to move from the Harvey Street address and that he overlooked the correspondence.

[13] Once the appellant's Living Alone Payment was cancelled it became necessary for the appellant to make a new application. Section 14 of the New Zealand Superannuation and Retirement Income Act 2001 provides that payment of Living Alone Payment commences on the later of the date on which the applicant became entitled to receive it or the date on which the application was received, whichever is the later date.

[14] The Chief Executive now accepts that the appellant's contact with the Ministry in 2011 could be treated as being an application for Living Alone Payment. However, as there was no contact with the appellant between 2007 and 2011 the Chief Executive has been unable to find an application during this period. We accept the Chief Executive's approach in this instance. Once the payment was cancelled in 2008 it was necessary for the appellant to reapply. As there was no contact with the appellant until 2011 there could not have been any application prior to that date.

[15] In the circumstances we do not consider there is any basis on which the Chief Executive can pay the appellant Living Alone Payment for the period 9 January 2008 to 9 May 2011.

[16] The appeal is dismissed.

DATED at WELLINGTON this 16 day of March 2015

Ms M Wallace
Chairperson

Mr K Williams
Member