

[2016] NZSSAA 009

Reference No. SSA 128/15

IN THE MATTER

of the Social Security Act 1964

AND

IN THE MATTER

of an appeal by **XXXX** of Porirua
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 seeks to lodge an appeal with the Authority relating to a decision by the Ministry not to employ the appellant and, in particular, the Ministry's failure to meet its obligation to support the appellant in his application for this job.

[2] The Chief Executive has submitted that the Authority does not have jurisdiction to hear the appeal. It is submitted that there is no reviewable decision by the Chief Executive. Neither is there a decision of the Chief Executive which has been confirmed or varied by a Benefits Review Committee. The Benefits Review Committee declined jurisdiction to consider the review.

Background

[3] The appellant applied for a vacancy in the Ministry's Information and Technology Department. We understand the appellant was not short-listed for the job. The appellant says that he requested support with his job application from Work and Income staff but no assistance was forthcoming. He believes that Work and Income have an obligation to provide him with assistance in his job-seeking.

[4] In particular, the appellant believes that there was a misrepresentation of his skill-set by the Human Resources/Recruitment arm of the Ministry. Work and Income should have stepped in to resolve this misrepresentation, thereby increasing the appellant's prospects of obtaining employment with the Ministry.

Decision

[5] In response to a question from the Authority that the appellant advise which provisions of the Social Security Act 1964 he was relying on, the appellant has advised:

- (i) There are numerous references on the MSD website and in MSD publications which imply the existence of obligations and legislative support for those obligations.
- (ii) It now appears that there is no legislation enforcing MSD's well advertised obligations. The advertising is in fact misleading.
- (iii) Section 116C of the Social Security Act 1964 implies a duty on MSD to give assistance in certain cases to help people find or retain paid employment.

[6] The jurisdiction of the Social Security Appeal Authority is limited in the first instance to certain pieces of legislation set out in s 12J of the Social Security Act 1964. These include the Social Security Act 1964, the New Zealand Superannuation and Retirement Income Act 2001 and the Veteran Services Act 2014.

[7] Employment by the Ministry is not a matter covered by the Social Security Act 1964 (the Act) or any other legislation in respect of which this Authority has jurisdiction.

[8] While the appellant claims that the Ministry or the Chief Executive has an obligation to provide assistance in obtaining employment, he has been unable to point to a provision in the Act which imposes a specific obligation on the Ministry or Chief Executive to assist. We are unable to find a current provision which supports the appellant's contention. In the past there may have been obligations on the Ministry recorded in a Jobseeker agreement, but we understand the Ministry no longer enters into such agreements with beneficiaries.

[9] A further limitation on the jurisdiction of the Authority is that it can only consider an appeal either where a decision has been made by the Chief Executive in person or a delegate of the Chief Executive has made a decision which has been confirmed or varied by a Benefits Review Committee.

[10] In considering the appellant's request for review the Benefits Review Committee concluded it had no jurisdiction to hear the review. As the decision in this case was not apparently made by the Chief Executive in person, and the matter has not been confirmed or varied by a Benefits Review Committee, this Authority has no jurisdiction to hear this appeal from the appellant.

[11] The Social Security Appeal Authority does not have jurisdiction to consider the issue raised by the appellant. The office of the Ombudsman may be a more appropriate place for the appellant to address his concerns.

[12] The appeal is struck out.

DATED at WELLINGTON this 2nd day of March 2016

Ms M Wallace
Chairperson

Mr K Williams
Member