

**Ian Guilford**  
Appellant

**Accident Compensation  
Corporation**  
Respondent

**Before:** D J Plunkett

**Counsel for the Appellant:** Self-represented

**Counsel for the Respondent:** M J Mercier

**Date of Decision:** 6 July 2016

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**DECISION**

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**INTRODUCTION**

[1] This is an appeal by Ian Guilford against the decision of a review officer on 3 April 2016 declining an application for review on the ground of a lack of jurisdiction.

[2] Mr Guilford has coverage under the accident compensation scheme for a back injury in 1985. While the Corporation initially declined to cover the mental consequences of that injury in August 1997, the Corporation reversed that decision and accepted coverage for such consequences in October 2015. The reviewer therefore regarded Mr Guilford's late application for review of the August 1997 decision as moot, so he declined jurisdiction.

[3] There is a preliminary issue as to the Authority's jurisdiction, namely whether there is any live issue to be decided on appeal.

## **BACKGROUND**

[4] Mr Guilford injured his back on 28 June 1985. Shortly thereafter, on an unknown date, the Corporation accepted coverage, at least for the physical consequences of the injury. I do not know the full extent of the compensation paid to him, but at the very least, his treatment costs and earnings-related compensation were paid by the Corporation.

[5] On 6 December 1995, Dr Eyers submitted a claim to the Corporation, on Mr Guilford's behalf, for Post Traumatic Stress Disorder arising out of the constant back pain caused by the June 1985 injury.

[6] On 22 August 1997, the Corporation declined cover under the Accident Rehabilitation and Compensation Insurance Act 1992 ("the 1992 Act"). While the letter does not expressly say so, its effect was restricted to declining cover for the mental consequences of the 1985 injury. Mr Guilford continued to obtain coverage for the physical consequences of that accident. The Corporation had in fact treated Dr Eyers' request as a new claim, so the original coverage of the accident was unaffected.

[7] Mr Guilford filed an application for review of the 22 August 1997 decision many years later, on 12 October 2015. The Corporation accepts he had not been notified of the 1997 decision at the time it was issued.

[8] In response to the review application, the Corporation wrote to Mr Guilford on 20 October 2015 advising that it had changed its decision and now accepted cover for the mental consequences of the injury sustained on 28 June 1985. He was invited to withdraw his review application.

[9] Mr Guilford, however, pursued the review application, so the reviewer issued a decision on 3 April 2016. He considered that the decision of the Corporation of 22 August 1997 was erroneous, as Mr Guilford was entitled to automatic coverage for the mental consequences of the 1985 accident under the Accident Compensation Act 1982 ("the 1982 Act"). However, that error had been cured by the Corporation's decision of 20 October 2015 accepting coverage for the mental consequences. There was no longer a live issue or dispute between the parties arising out of the 22 August 1997 decision, so he had no jurisdiction to consider the matter further and accordingly dismissed the application.

## **CASE ON APPEAL**

[10] Mr Guilford has appealed to the Authority against the reviewer's decision of 3 April 2016. His submissions are set out in the completed Notice of Appeal and in further undated submissions sent to the Authority on about 13 June 2016. Mr Guilford raises many issues which do not arise out of the 22 August 1997 decision of the Corporation or the reviewer's decision of 3 April 2016, notably reimbursement of his treatment costs.

[11] The Corporation's submissions of 24 May 2016 contend that the Authority does not have jurisdiction, since the decision of the Corporation subject to appeal had been revoked and the only issue which could have been determined had now been resolved in Mr Guilford's favour.

## **THE LAW**

[12] Mr Guilford was injured during the currency of the 1982 Act. Notwithstanding the repeal of that Act, the Authority continues to have jurisdiction over certain claims arising from personal injury by accident occurring on or before 30 June 1992 (section 391 of the Accident Compensation Act 2001 – "the 2001 Act"). In terms of procedure, it is the appeal provisions in the 1982 Act that are applicable.

[13] An appeal lies to the Authority against certain decisions of a review officer (section 107 of the 1982 Act). An appeal is by way of a rehearing (section 109(1) of the 1982 Act). The Authority can confirm, modify or reverse a decision, or refer the matter back to the Corporation (section 109(7) & (8)).

## **ASSESSMENT**

[14] Mr Guilford, through Dr Eyers, sought coverage in 1995 for the mental consequences of an injury in 1985. While initially declined by the Corporation in August 1997, it was granted in October 2015 when Mr Guilford sought review of the decline decision.

[15] The Corporation has reversed the August 1997 decision. According to Mr Guilford, there are no provisions in the 1992 Act (under which that decision was made) allowing it to do that. It is not apparent why he would want to advance that argument. In any event, it is not material. The power to revise a decision is contained in s 390 of the 2001 Act. Alternatively, it is to be inferred from the

decision-making power itself. There is no statutory prohibition against revising a decision.

[16] It follows that there is no longer any dispute or live issue arising out of the challenged decision. Mr Guilford has raised numerous potential issues and disputes on this appeal, but they do not arise out of the August 1997 decision or the reviewer's decision of 3 April 2016.

[17] In particular, Mr Guilford now seeks reimbursement of his treatment costs and other forms of compensation and entitlements arising out of coverage of the mental consequences of the injury. However, there has been no decision by the Corporation on any such entitlements.

[18] I appreciate that in the August 1997 decision, the Corporation declined treatment costs, but that automatically followed as a result of refusing coverage. The Corporation's counsel is correct in submitting that treatment costs were not the primary focus of that decision. It is in effect a decision on coverage only. With the acceptance now of coverage, certain entitlements arise, including reimbursement of treatment costs.

[19] Mr Guilford should now make those claims for the various forms of compensation available. Those future decision of the Corporation on entitlement or compensation would be subject to review and appeal to the appropriate body, which might be the District Court, if Mr Guildford is dissatisfied with those decisions. Such matters are not part of my jurisdiction on this appeal (as the reviewer noted in respect of his own jurisdiction at pp 10 & 11 of the review decision).

### *Conclusion*

[20] There is no live issue and no dispute. The reviewer correctly dismissed the review application.

[21] Mr Guilford seeks costs. As he is not represented, it is not clear what those costs are, but in any event I have no jurisdiction to award costs in his favour given the outcome of this appeal (s 110 of the 1982 Act).

**OUTCOME**

[22] The decision of the review officer is confirmed and this appeal is dismissed.

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D J Plunkett