

[2016] NZSSAA 079

Reference No. SSA 034/16

**IN THE MATTER**

of the Social Security Act 1964

**AND**

**IN THE MATTER**

of an appeal by **XXXX** of Auckland  
against a decision of a Benefits  
Review Committee

**BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY**

Ms M Wallace - Chairperson  
Mr K Williams - Member  
Lady Tureiti Moxon - Member

**HEARING** at AUCKLAND on 27 July 2016

**APPEARANCES**

The appellant in person  
Ms P Siueva for the Chief Executive of the Ministry of Social Development

**DECISION**

**Introduction**

[1] The appellant appeals against a decision of the Chief Executive, upheld by a Benefits Review Committee, to provide assistance to the appellant for bond, letting fee and rent in advance by way of recoverable assistance rather than non-recoverable assistance.

[2] The issue in this case is whether the appellant could have been paid non-recoverable assistance.

## Background

[3] The appellant is a trained social worker and counsellor. Between July 2014 and 10 August 2015, she was in receipt of Jobseeker Support.

[4] On 10 August 2015, she commenced full-time employment. Her last benefit payment of \$273.88 was made on 11 August 2015.

[5] Prior to her benefit ceasing on 6 August 2015, the appellant sought financial assistance to assist her with the transition to work. The form that the appellant completed at the time stated that:

The Transition to Work grant can help with costs associated with looking for or moving into work. It can help pay for clothes, transport costs for an interview for work, or with associated costs in relocating when starting work. It may also help with living costs until you get your first pay.

The appellant advised that she would not receive her first pay until 31 August 2015. As a result, she was granted \$250 by way of non-recoverable assistance to assist with her expenses until she received her first pay packet.

[6] At the time of her application, the appellant was living with her youngest daughter in XXXX. The appellant said that it was a three bedroom house and that the house was overcrowded. There were four adults, an adolescent and three children living in the house. The appellant said that she was living on a mattress on the floor and did not have her own room. Moreover, the tenancy agreement held by her daughter did not allow her to be living there. This was not a satisfactory situation for her to be in once she commenced work.

[7] The appellant commenced work on 10 August 2015 and began looking for alternative accommodation. She viewed a suitable property on 14 August and moved into this property, which was a two bedroom house, on 17 August.

[8] On the same day that she viewed the house, she made an application for financial assistance for a bond, rent in advance and agency letting fee. The total amount involved was \$1,599.

[9] The appellant was granted recoverable assistance under the Recoverable Assistance Payment Programme.

[10] The appellant says that the assistance should have been granted as non-recoverable assistance under the Employment and Work Readiness Assistance Programme (EWRAP), because, in effect, she was relocating.

[11] The appellant would like clarification of what “relocation” means. She says that simply by moving, it could be said that she was relocating. The appellant said that she felt the information provided to her about her Transition to Work entitlements was inadequate.

[12] On behalf of the Chief Executive, it was submitted that the appellant was able to take up the offer of employment without relocating. She would not have been prevented from taking up the employment if she was not provided with assistance to move to another property in the same vicinity as she had been living. It was submitted that an internet search using Google indicated that the appellant’s new residence is approximately 900 metres from her previous residence, and that her new place of employment is 5.9 kilometres distance from her daughter’s house and 5.7 kilometres from her new home.

## **Decision**

[13] The provision of non-recoverable assistance under the Social Security Act 1964 is relatively limited.

[14] There is provision under the Special Needs Grant Programme for recoverable and non-recoverable assistance. The only category the appellant’s application could have been considered under was the emergency provisions. There is no suggestion in this case that an emergency existed which would have warranted the payment of non-recoverable assistance to the appellant under the Special Needs Grant Programme.

[15] The EWRAP is a welfare programme with the stated purpose of helping facilitate the transition and retention of beneficiaries into sustainable employment. Assistance under the programme may be either recoverable or non-recoverable.

[16] Clause 6(3)(c)(ii) of the programme provides that a person who was formerly receiving a main benefit under the Act whose benefit was terminated because they entered employment may be eligible to apply for assistance under the programme. In effect, the appellant was not prevented from applying for assistance under this programme simply because she had started work a few days earlier.

[17] In considering an application, the Chief Executive is also required to have regard to whether the person would be entitled to assistance for the same or similar purpose under the Act or other enactment.

[18] The amount of assistance that can be provided is limited to the amount provided in the schedule to the programme.

[19] Clause 6(1)(f) of the schedule under the heading 'Assistance to Transition into Employment' provides for assistance with job placement expenses. These are defined as:

being costs that an applicant will need to incur to enter employment (other than training costs) including relocation costs, if the applicant needs to relocate his or her place of residence to take up the offer of employment.

The schedule provides that assistance of up to \$1,500 can be provided for under this programme. The amount of \$1,500 can be exceeded in exceptional circumstances (Clause 12).

[20] The appellant says that, in effect, to take up her employment she needed to move to more suitable housing. She was required to relocate and she should therefore be eligible for assistance under the EWRAP.

[21] The term "relocation" is not defined in the EWRAP. The word is defined in the New Zealand Oxford dictionary as:

1. Locate in a new place.
2. Move to a new place esp. (to live or work).

[22] "Place" is defined in the New Zealand Oxford dictionary as:

- 1a a particular portion of space.
- b a portion of space occupied by a person or thing.
- c a proper or natural position to:  
a city, town, village.
- 3 a residence, a dwelling etc.

[23] Arguably, simply moving to a new home could be regarded as relocation. However, the term must be read taking into account the text, purpose and context of the programme. Subparagraph 6(1)(f) of the Schedule, which is the provision the appellant relies on, provides for "job placement expenses, being costs that an applicant will need to incur to enter employment (other than training costs) including relocation costs if the applicant needs to relocate his or her place of residence to take up the offer of employment".

[24] The words "will need to incur" and "to take up the offer of employment" and "needs to relocate" are important. Location expenses can be paid only if it would not be possible to take up the offer of employment without relocating. Thus, the inference to be drawn is that the offer of employment will be at a place which makes it impracticable for the person to travel to that location on a daily basis, because of the time and money involved, and that it would not be possible to take up the offer of employment if he or she does not shift his or her place of residence. The term "relocation" in the context of the programme means to move to a location that makes it possible to take up the offer of employment.

[25] We appreciate that it was desirable that the appellant move to alternative accommodation if she was to perform well and retain her employment, but the appellant did not need to incur the cost of renting a home to take up her new employment. She commenced work before the new home was rented. If she had not changed her housing situation it may have impacted on her performance at work but her existing accommodation did not prevent her from taking up the offer of employment.

[26] Even had the appellant been obliged to shift to take up employment, it would have been relevant for the Chief Executive to consider whether the assistance should be recoverable or non-recoverable, and that assistance was also available to the appellant under the Recoverable Assistance Programme. This programme makes specific provisions for the Chief Executive to assist non-beneficiaries with tenancy bonds and advances for rent.

[27] We are satisfied that the provision of recoverable assistance to the appellant for the costs of rent in advance, bond and letting fee was appropriate because the appellant did not relocate to take up her new employment.

[28] The appeal is dismissed.

**DATED** at WELLINGTON this 22<sup>nd</sup> day of August 2016

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Ms M Wallace  
Chairperson

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Mr K Williams  
Member

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Lady Tureiti Moxon  
Member