

IN THE MATTER

of the Social Security Act 1964

AND

IN THE MATTER

of a proposed appeal by way of
Case Stated to the High Court by
XXXX of Auckland against a
decision of a Benefits Review
Committee

**DECISION OF THE CHAIRPERSON OF
THE SOCIAL SECURITY APPEAL AUTHORITY**

[1] The appellant has lodged an appeal in respect of the Authority's decision of 13 November 2015.

[2] Appeals from the Authority's decision are limited to questions of law. There is no general right of appeal.

[3] In accordance with the provisions of the Social Security Act 1964 the appellant has been requested to lodge a draft case stated which includes the questions of law which the appellant would like to be put to the High Court.

[4] In a recent High Court decision, *Lawson v the Chief Executive of the Ministry of Social Development*¹. The High Court advised the Authority that:

- (i) The Authority is not obliged to recognise all questions of law proposed as justifying the stating of a case for the decision of the High Court.
- (ii) The Chair of the Authority must retain final control over a case stated and ensure that a case is confined to errors of law alone.

¹ [2016] NZHC 910

- (iii) Not every legal issue is to be submitted to the High Court. Where some have obvious answers then there is no question to refer to the Court.

[5] In the draft Case Stated document lodged by the appellant he sets out the following in respect of a proposed question:

I believe that it was not according to the law that I was not given a house early in the camp due to five family members. I tried to explain this to the Authority with the help of an interpreter. There were families, in our group and in the next groups later with more than five family members and they were given a house from Housing New Zealand. Some were granted two separate houses for one big family. I sincerely ask the Authority to reconsider my case in light of all of this.

[6] The Authority notes:

- (a) The statement in 'D' of the appellant's draft Case Stated does not amount to a question of law.
- (b) The Authority itself does not have power to rehear the appellant's case in the absence of a direction from the High Court.
- (c) The Authority's decision of 13 November related to an application for social housing made on 5 September 2014 and the assessment of that application. The appellant is still apparently seeking to raise an issue relating to the fact that he was not allocated a house in 2012. While the Authority made reference to the 2012 application in passing this reference was not the actual issue decided by the Authority.
- (d) The appellant appears to be wishing to relitigate the issue of whether or not simply being a refugee is a criteria which results in automatic qualification for social housing. The Authority recorded in its decision that simply being a refugee is not a criteria which results in automatic qualification for social housing. I am not satisfied that any serious argument can be made to the contrary.

[7] The appellant has received a minute outlining the Chairperson's view of this matter. He was given 14 days to respond. No response has been received from the appellant.

[8] In the circumstances I am not satisfied that the appellant has proposed a question of law which arises from the Authority's decision of 13 November 2015. I am not satisfied that it would be appropriate to state a case to the High Court in relation to this matter. I therefore decline to state a case in relation to this proposed appeal.

DATED at WELLINGTON this 11th day of November 2016

Ms M Wallace
Chairperson