

**IN THE MATTER**

of the Social Security Act 1964

**AND**

**IN THE MATTER**

of an appeal by **XXXX** of  
Dunedin 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**

[1] The Authority issued a decision in relation to this appeal on 4 May 2015.

[2] The Authority adjourned the appeal to enable the Chief Executive to make a determination about whether or not part of Ms XXXX's benefit entitlement should be paid to the appellant for the benefit of the children in the weeks that he is responsible for their care and the amount of such payment.

[3] The Chief Executive of the Ministry of Social Development lodged an appeal in relation to this aspect of the decision.

[4] The High Court issued a decision on 14 June 2016 finding that the Authority erred in law in directing the Chief Executive to consider exercising his discretion under s 82(3)(b)(ii) of the Act in respect of the appellant's former partner's benefit entitlement. It also found that it had acted outside its jurisdiction in indicating to the Chief Executive matters that would need to be taken into account in exercising his discretion. The matter was remitted to the Authority to finalise the appeal.

[5] The Authority found in its decision of 4 May 2015 that the operation of s 70B of the Social Security Act 1964 means that the Chief Executive has no alternative but to exclude the children from the assessment of the appellant's entitlement to benefit.

[6] In those circumstances we are unable to take this matter any further.

[7] The appeal is dismissed.

**DATED** at WELLINGTON this 9<sup>th</sup> day of December 2016

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Ms M Wallace  
Chairperson

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Mr K Williams  
Member