

[2017] NZSSAA 021

Reference No. SSA 104/16

**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**

**S Pezaro** - Deputy Chair

**C Joe** - Member

**Hearing at Christchurch** on 30 March 2017

### **Appearances**

No appearance for the appellant

J Hume, agent for the Ministry of Social Development (by Audio Visual link)

## **DECISION**

### **Background**

- [1] Mr XXXX filed a notice of appeal dated 1 September 2016. Mr XXXX's application is difficult to understand and, as he did not appear at the hearing, we rely on his written notice of appeal and subsequent letters and emails to the Authority. We understand Mr XXXX to be seeking a full investigation of the service provided to him by WINZ since the Christchurch earthquakes in February 2011 and a review of the level of his Disability Allowance and Special Benefit.
- [2] Prior to the hearing Mr XXXX sent several emails to the case manager indicating that he would not appear at a hearing. These emails are not easy to understand but it is clear that they express a level of frustration that Mr XXXX has about the service that he has received from the Ministry of Social Development.

- [3] Mr XXXX's dissatisfaction about service has been the subject of applications to the Human Rights Review Tribunal and the High Court. In 2015 MSD compensated him with a payment of \$2000 in recognition of service failures and wrote off a debt of \$2311.74 which was for relocation costs, rent/letting fee and bond.<sup>1</sup>
- [4] On 13 May 2016 the High Court determined an application by Mr XXXX for judicial review.<sup>2</sup> Ellis J noted that Mr XXXX's claim was not clearly or coherently pleaded but assumed that the impugned decision was the one made on 22 March 2011 denying his application for relocation and accommodation costs after the Christchurch earthquake. Her Honour recorded that at the time of hearing MSD had accepted that this decision was wrong and remade it.
- [5] Mr XXXX's complaints about the service he has received are not something this Authority can consider. Such claims are outside the jurisdiction of this Authority which does not have the power to award compensation or general damages. The only right of appeal to this Authority is against a decision which has been made by a Benefits Review Committee under s 10A of the Social Security Act 1964 or a decision made by the Chief Executive.<sup>3</sup>
- [6] Even if we could determine a claim for compensation, it appears that the matter of service delivery has been settled between the parties.
- [7] We therefore consider the appeal as it relates to the level of Mr XXXX's Disability Allowance and Special Benefit.

### **Disability Allowance and Special Benefit**

- [8] On 15 August 2016 a Benefits Review Committee partly upheld the decisions of the Chief Executive in relation to the Disability Allowance and Special Benefit but recommended that the Special Benefit continue to be paid at the rate of \$117.50 until the next Special Benefit review to give Mr XXXX time to adjust to the reduction.
- [9] After Mr XXXX filed his notice of appeal the Disability Allowance was reviewed on 31 October 2016 and the Special Benefit was reviewed on 26 September

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<sup>1</sup> Letter from Carl Crafar, Deputy Chief Executive, Service Delivery, Ministry of Social Development, 28 August 2015.

<sup>2</sup> *XXXX v Chief Executive of the Ministry of Social Development* [2016] NZHC 967.

<sup>3</sup> Section 12J.

2016. At the time of hearing Mr XXXX received a Disability Allowance of \$61.69 and a Special Benefit of \$106.50 weekly.

[10] The Ministry submits that these amounts are correct based on the total allowable costs and the application of the relevant formula assessment.

**Decision**

[11] The Ministry's submissions are coherent and based on an evidential foundation which is unchallenged. Mr XXXX has not provided any evidence to suggest that the amounts on which the Ministry has based its assessment of his Disability Allowance or Special Benefit are incorrect.

[12] We conclude that Mr XXXX is entitled to a weekly Disability Allowance of \$61.69 and a weekly Special Benefit of \$106.50.

[13] The appeal by XXXX is dismissed.

**Dated at Wellington** this 9<sup>th</sup> day of May 2017

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**S Pezaro**  
Deputy Chair

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**C Joe JP**  
Member