

[2017] NZSSAA 041

Reference No. SSA 117/16

**IN THE MATTER** of the Social Security Act 1964

**AND**

**IN THE MATTER** of an appeal by **XXXX** of XXXX  
against a decision of a Benefits  
Review Committee

## **BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY**

**S Pezaro** - Deputy Chair

**K Williams** - Member

**Hearing** at **TAURANGA** on 12 July 2017

### **Appearances**

The appellant in person

P Siueva, agent for the Ministry of Social Development

### **DECISION**

- [1] XXXX appeals the decision of the Chief Executive not to grant her an increase in her accommodation supplement of \$40 from 30 April 2016. This decision was upheld by a Benefits Review Committee on 24 August 2016.
- [2] Since her appeal was filed Ms XXXX's rent has increased again on 20 February 2017 to \$430 per week. This last rent increase occurred after Ms XXXX was given notice to vacate the home she had lived in for 24 years.
- [3] When she had to move Ms XXXX was unable to find suitable accommodation under \$400 a week. Ms XXXX has regular care of her grandchildren and states that by court order she has her five year old grandson one day each week overnight.

**The case for the appellant**

- [1] Ms XXXX seeks an increase in the \$100 per week accommodation supplement that she receives. She acknowledges that this allowance is the maximum under the applicable regulations and formula based on geographical region. However Ms XXXX points out that the accommodation supplement has not been increased in 10 years and is clearly inadequate. She also referred to the link between poverty and mental health issues. It is important to her to have a home that allows her to have her grandchildren and provides stability, rather than to rely on social housing.
  
- [2] Ms XXXX is 57 and has suffered from bipolar/borderline personality disorder since she was twenty. She faces significant challenges managing her mental health and also her physical health due to severe arthritis and restless leg syndrome. The treatment for her restless legs is a drug which unfortunately counters the effectiveness of her anti-depressant medication. This has created further challenges for Ms XXXX in maintaining stable mental health.
  
- [3] Despite these challenges Ms XXXX describes herself as a high achiever and high functioning when she is well. She is an accountant and has worked part-time for the same company for five years.
  
- [4] In addition to this work and time caring for her two grandchildren Ms XXXX does voluntary work and has been studying at the University of Waikato towards a social science degree. She states that she has had to fund these course-related costs herself as she does not qualify for assistance.
  
- [5] Ms XXXX describes a frugal life with careful budgeting. In April 2016 Ms XXXX's rent increased from \$280 a week to \$320 a week and at that time she applied for additional assistance and a food grant of \$50. She was granted \$9.30 towards her rent increase but the food grant application was declined. Prior to the Benefits Review Committee hearing the decision to decline the food grant was reversed.
  
- [6] When Ms XXXX took the new tenancy agreement on 20 February 2017 she had to pay a \$1,720 bond, a \$494.50 letting fee and \$430 as one week's rent in advance. This total of \$2,644.50 was advanced to her by the Ministry. Ms XXXX repays this amount on a weekly basis by way of deduction from her benefit.

- [7] The Ministry filed additional submissions on 5 July 2017 in which it stated that the recovery rate of this advance was reduced from \$29 per week to \$5 per week. At hearing Ms XXXX stated that the reduction had not yet occurred but Ms Siueva explained that it should take effect from this week's payment which had not been processed at the time of hearing.
- [8] Ms XXXX provided a budget showing her current income and expenses. Before the reduction in the repayment of advance she showed a deficit in June 2017 of \$43 a week. Her total income, including approximately \$100 per week from paid employment, is \$564.67 per week. In addition to rent of \$430 per week she is required to pay tenancy insurance of \$5.50 per week. After expenses, including power and water, Ms XXXX has \$80 per week for food, clothing and other household expenses.
- [9] Prior to the hearing Ms XXXX took a boarder. Although she described this person as a boarder, at hearing she said that she does not provide meals. The \$150 a week paid by this person includes their room, rent and power. This arrangement has removed some financial stress but diminished Ms XXXX's sense of privacy and therefore increased her level of personal stress.
- [10] Ms XXXX expressed her concern and dissatisfaction at the long delays in dealing first with her application for review to the Benefits Review Committee and then with her appeal. It appears that her application for review of the decision was not processed until she complained to the Minister of Social Development. After the Benefits Review Committee upheld the decision Ms XXXX waited almost a year to have this appeal heard. These delays are regrettable and have clearly placed additional stress on Ms XXXX.

#### **The case for the Ministry**

- [11] The Ministry submits that in accordance with ss 61E and 61EA of the Social Security Act 1964 the Ministry can provide an accommodation supplement. The rate of supplement is determined by Schedule 18 of the Act which categorises geographical areas for the purposes of the accommodation supplement and provides a formula for calculating a weekly accommodation supplement up to a maximum, according to the area.
- [12] In accordance with this formula an accommodation supplement for a person living in Area 2, as in Ms XXXX's case, cannot receive more than \$100 per week by way of an accommodation supplement.

- [13] The Ministry also considered whether Ms XXXX qualified for temporary additional support when the accommodation supplement increased in April 2016. Prior to the hearing the Ministry further considered the temporary additional support based on the February 2017 rent increase and Ms Siueva said that Ms XXXX is now being paid the maximum under temporary additional support. Ms XXXX is not currently paid the maximum disability allowance.
- [14] Ms XXXX provided her hospital discharge report dated 12 June 2017. In this report the doctor noted that the counsellor whom Ms XXXX had been seeing for four years through the public health system has worked privately since December 2016. Ms XXXX said that the cost of seeing her counsellor is now \$90 per session.
- [15] Ms XXXX spent six days in hospital in June and the doctor recorded in the discharge report “she can only get counselling now via WINZ which is once monthly (not considered enough)”. While a direct link between the change in frequency of counselling and hospital admission cannot be assumed, there is a medical opinion that the reduced frequency of counselling is inadequate. This reduction is due to the cost but the cost of counselling is significantly less than the cost of hospital admission. We recommend the Ministry investigate its options for increased funding of Ms XXXX's counselling.

### **Decision**

- [16] We are required to apply the prescribed formula for determining the accommodation supplement to which Ms XXXX is entitled. Inevitably as a result of where she lives she is not entitled to more than \$100 per week.
- [17] There can be no doubt that, as she states, the fact that this supplement has not been increased in 10 years means that it is providing significantly less assistance than it would have done 10 years ago when market rent was considerably less. Further there does not appear to have been any revision of the way in which the geographical areas have been categorised for the purpose of setting the rate.
- [18] The appeal is dismissed.

[19] The accommodation supplement payable to the appellant is \$100 per week.

**Dated at Wellington** this 21<sup>st</sup> day of July 2017

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**S Pezaro**  
Deputy chair

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**K Williams**  
Member