

**PURSUANT TO S 160(1)(b) ACCIDENT COMPENSATION ACT 2001
THERE IS A SUPPRESSION ORDER FORBIDDING PUBLICATION OF
THE APPELLANT'S NAME AND ANY DETAILS THAT MIGHT IDENTIFY
THE APPELLANT**

**IN THE DISTRICT COURT
AT WELLINGTON**

**I TE KŌTI-Ā-ROHE
KI TE WHANGANUI-A-TARA**

[2022] NZACC 120 ACR 160/20

UNDER THE ACCIDENT COMPENSATION ACT
2001

IN THE MATTER OF AN APPEAL UNDER SECTION 149 OF
THE ACT

BETWEEN KC
Appellant

AND ACCIDENT COMPENSATION
CORPORATION
Respondent

Hearing: On the papers

Submissions: The appellant was self-represented
Ms Becroft for the respondent

Judgment: 27 June 2022

RESERVED JUDGMENT OF JUDGE C J McGUIRE
[Claim for costs, Accident Compensation Act 2001]

[1] This judgment as to costs follows the substantive reserved judgment dated 27 April 2022. The appellant having acted on her own behalf seeks costs which in this case are confined to reasonable disbursements.

[2] She seeks the following amounts:

- (a) Employment of people to type submissions/documents/emails to appeals Court (22 months multiplied by AUD 140 = AUD \$3,080)
- (b) Printing/photocopying/scanning three claims totalling AUD \$301.

(c) Transport, taxi/petrol for printing/scanning/photocopying of documents (21 months multiplied by AUD \$16 = AUD \$336).

(d) Internet bill, AUD \$70 monthly multiplied by 18% multiplied by 21 months = AUD \$265.

[3] Disbursements as set out in Rule 14.2 of the District Court Rules means an expense incurred for the purposes of the proceeding that would ordinarily be charged or billed separately from professional services in a solicitor's bill of costs.

[4] A disbursement must be specific to the particular proceedings, reasonably necessary, a reasonable amount, and proportionate.

[5] As Fisher J in *Russell v Taxation Review Authority* stated:¹

Finally, to qualify as a recoverable disbursement under the "other necessary payments" provision the payment must be not only reasonable but "necessary". In my view this implies two things. One is that the full amount is not recoverable where a cheaper way of doing things would not have prejudiced the proper conduct of the litigation. The costs-paying party is not required to underwrite the other party's legal services to a Rolls-Royce standard. ...

[6] The appellant claims \$3,080 for the typing of submissions and supports this by the provision of 22 handwritten receipts for \$140 over a 22 months period.

[7] Ms Becroft for the respondent acknowledges that while the appellant filed two sets of submissions, one of which was 56 pages long and the other 94 pages long, there was only 8 pages in total of typed submissions, the rest being annexures.

[8] She submits therefore that it is impossible to reconcile the cost of 8 typed pages with what the appellant is claiming. Ms Becroft submits that two hours of at market rate of \$50 an hour would cover this cost.

[9] Ms Becroft also acknowledges that the appellant engaged in a large amount of email correspondence following the lodgement of her appeal and up until the

¹ *Russell v Taxation Review Authority* (2000) 14 PRNZ 515 at [16].

hearing. She submits that a significant amount of that correspondence was not necessary to the appeal and involved matters beyond the scope of the appeal.

[10] She notes that in *Kahukiwa v Westpac Banking Corporation*,² it was stressed that the costs of the proceeding referred to the actual proceeding before the Court and did not extend to preliminary advice, advising on alternative proceedings or involvement in settle negotiations.

[11] She also submits that it was not clear that the email correspondences, which were sent at all times of the day and night was typed by a third party.

[12] In her submissions the appellant says that she has had to send multiple letters and emails daily to ACC, Ms Becroft and the Appeals Court. She says she has needed her typist daily to assist with all matters relating to ACC. She says:

I have genuinely incurred these costs. I would like all my costs paid in full, so that ACC does not continue its time wasting, damaging settlement blocking activities, just because injured claimants like myself are legally unrepresented.

[13] She wishes all of her costs in Appendix A and Appendix B to be considered by the Court. Unfortunately for the appellant the District Court Rules do not allow for an expansive approach to the order of costs. The decided authorities as well as the rules themselves do not allow for this.

[14] It is acknowledged that the typing of submissions would ordinarily require revision by the appellant, and I am satisfied that that has occurred here. The concise nature of the submissions and their focus is evidence of that. In this case therefore I am prepared to allow a cost award for typing of \$1,200.

[15] Applying the same principles, the sum of \$150 is allowed for printing, photocopying and scanning. A further allowance of \$150 is allowed for her transport costs related to printing, photocopying and scanning.

² *Kahukiwa v Westpac Banking Corporation*, HC Wellington, 17/12/99 CP418/98 17/12/1999.

[16] Her claim for internet use is declined. I infer that these are costs that the appellant would have to meet in any event.



Judge C J McGuire
District Court Judge

Solicitors: Medico Law Limited for the respondent.