

**Gary Baigent**  
Appellant

**ACCIDENT COMPENSATION  
CORPORATION**  
Respondent

**Before:** D J Plunkett

**Counsel for the Appellant:** J Miller

**Counsel for the Respondent:** P McBride

**Date of Decision:** 25 June 2014

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**FINAL DECISION**

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[1] This is an appeal against the report of a reviewer of 3 April 2013 concerning attendant care compensation. That report had been implemented by the respondent Corporation on 11 April 2013. The appeal to the Authority was filed on about 6 June 2013.

[2] This appeal was heard on 31 March 2014 and an Interim Decision issued by the Authority (Ms Bedford) on 15 April 2014.

[3] In that decision, the Authority determined that the appeal be dismissed (more details as to the nature of the dismissal are given shortly). However, the Authority raised two procedural issues, which it invited the appellant to cure. The first was that his appeal had been filed late, so it granted an extension of time, pursuant to section 108(1) of the Accident Compensation Act 1982, provided a *pro-forma* application for leave to appeal out of time was filed. Second, the Authority considered the appeal should be against the Corporation's decision of 11 April, so the notice of appeal would have to be amended to cover that decision.

[4] The dismissal of the appeal by the Authority was therefore to occur in one of two ways:

1. If the appellant filed an application for leave to appeal out of time and an amended notice of appeal, then the appeal would be dismissed on its merits in a final decision. This was intended to grant the appellant the right to then apply to the Authority for leave to appeal to the High Court on the merits.
2. If the appellant did not file such an application and amended notice, then the appeal would be dismissed for lack of jurisdiction. The Authority considered that any subsequent appeal to the High Court would be confined to that jurisdictional issue.

[5] The appellant duly filed the application for leave to appeal out of time and the amended notice of appeal, on 19 April 2014, within the time limit set by the Authority.

[6] On 6 June 2014, the Authority invited the parties to advise whether there was any obstacle to a final decision being issued. The respondent advised on 17 June that it would abide the Authority's decision, without conceding any jurisdictional issues. There were no submissions from the appellant.

[7] The current Authority (Mr Plunkett) expresses no view on the appropriateness or need for the additional procedural step directed on 15 April.

## **OUTCOME**

- [8]
1. The Authority accordingly formally confirms the grant of leave to appeal out of time.
  2. The Interim Decision is hereby made final. The appeal is dismissed on its merits for the reasons given in the decision of 15 April 2014.

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D J Plunkett