

[2019] NZSSAA 12

Reference No. SSAA 82/18

IN THE MATTER of the Social Security Act 2018

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

C Joe - Member

Hearing at Hamilton on 22 January 2019

Appearances

The appellant in person

xxxx, support person for the appellant

A Katona, agent for the Ministry of Social Development

DECISION

Background

[1] XXXX (the appellant) appeals the decision of 4 April 2018, upheld by the Benefits Review Committee, to grant him \$95 for a Special Needs Grant for food and not \$200 as he requested.

[2] This appeal was filed in the name of XXXX. The covering letter gave the name AA in brackets. After the appeal was filed, a lawyer then acting confirmed that he represented XXXX without any reference to another name. At the hearing the appellant said that he had changed his name to AA.

- [3] In the Ministry's report it referred to the appellant as AA with the name XXXX in brackets and stated that the appellant is known to the Ministry by AA, BB, CC and XXXX. The report included evidence of the appellant using these names with the Companies Office.
- [4] For the purposes of this proceeding and in the absence of evidence of the appellant's legal name at the date of hearing, we consider that it is appropriate to use the name that he used when he sought a review of the decision and filed his notice of appeal, that is XXXX.

The case for the appellant

- [5] The appellant said that on three occasions he applied for assistance to buy food because he spent his benefit having his washing machine repaired. These applications for assistance were made on 15 December 2017, 15 March 2018 and 4 April 2018. The last occasion, when he applied for \$200 but was granted \$95, is the subject of this appeal.
- [6] The appellant is a big man and he says that the size of his clothing contributes to the problem with his washing machine. From 2 February 2018 his son has been living with him which adds to the laundry requirements.
- [7] The appellant says that when he applied for a Special Needs Grant in April he explained that the washing machine had broken down because he used it four to six times per day for several days because his son had scabies. He said that health professionals recommend washing all bedding, clothing, and towels. He said doing this daily meant four to six laundry cycles.
- [8] The appellant said that when he attended the Special Needs Grant interview he provided evidence of the medication prescribed for scabies, an explanation of his health issues which prevented him from using a laundromat, the reason that he paid the repair cost directly on the day and could not apply to WINZ to have the repair cost pre-approved, and a hand written note which he said was the receipt.
- [9] The appellant said that he found the serviceman through a Facebook contact and the serviceman was reluctant to give him a receipt because of "his income source and any ramifications that may follow".

- [10] The appellant said that he needed \$200 for food because after he paid the \$220 repair bill he was left with nothing for food. He said that due to his diet and health conditions he had to buy food each week as well as food for his 12-year-old son.
- [11] The appellant argued that his need for food was an essential expense and therefore WINZ should have followed the guidelines for exceptional circumstances and granted the full amount that he sought. The appellant submitted that the scabies infestation, his medical conditions and the cost of the washing machine repair were exceptional circumstances that he had to meet from his benefit. He said he has uncontrolled diabetes and required food for himself and his dependent child and these basic necessities were at risk if the Special Needs Grant was not granted in full.
- [12] The appellant also argued that by granting the sum of \$95, the Ministry accepted that there was an essential cost to be met.
- [13] In evidence the appellant said that he was a trained technician for washing machine repairs but did not know how to fix the machine he owned. He said that he would have got an approved service person if it had not been a holiday weekend.
- [14] In response to Ms Katona, the appellant said that his son developed scabies the day before the long weekend which he agreed was Thursday 29 March 2018, Good Friday being on 30 March.
- [15] Ms Katona then asked the appellant how it was that the machine broke down only two days later. The appellant said that he washed all the clothes and sheets some four to five days before his son was diagnosed with scabies. The appellant did not produce any evidence of this diagnosis.

The case for the Ministry

- [16] In its report the Ministry set out the assistance currently provided to the appellant. This is Supported Living Payment, Disability Allowance, Accommodation Supplement, Temporary Additional Support and Family Tax Credit. After deductions for Child Support, Ministry fines and debt repayment he is left with \$710.69 per week. His level of debt with the Ministry at the time of the report was \$24,508.31.

- [17] The Ministry said that on 4 April 2018 when the appellant sought the food grant of \$200, he also applied for emergency medical costs of \$1,035. He was granted \$300 as a non-recoverable Special Needs Grant and \$735 as a recoverable advance to meet his need for medication. The appellant was told that the balance of his food entitlement under the Special Needs Grant Welfare Programme was \$95 because the maximum that can be granted in 26 weeks is \$450 to a sole parent with one or two dependent children, unless there are exceptional circumstances.
- [18] The Ministry noted that the appellant's two previous applications for food grants were also due to washing machine repairs. Both these applications were approved.
- [19] The Ministry says that the usual procedure when an applicant has washing machine repair costs is to either grant a recoverable advance assistance to cover the repair or offer the appellant an opportunity to purchase a new machine through a preferred supplier at a reasonable price. The price of the new washing machine is granted as a recoverable advance of benefit.
- [20] The Ministry produced evidence confirming that the appellant has traded as a self-employed whiteware service and salesman and operated an appliance business which bought old broken whiteware which was repaired and on-sold.
- [21] In 2015 the appellant pleaded guilty to charges of managing or controlling a business while an undischarged bankrupt, obtaining credit while an undischarged bankrupt, obtaining credit by false representation, and misleading the official assignee. During his bankruptcy, he traded in whiteware, employing retired servicemen to fix the machines before he on-sold them.
- [22] The Ministry was concerned to verify the costs which the appellant said that he had incurred. However the Service Centre granted the appellant a food grant of \$95 without formal verification, according to Ms Katona because the appellant had a dependent child and health related costs.
- [23] At the hearing Ms Katona said that this decision was inconsistent with the requirements for approving a Special Needs Grant for food in Clause 11.2.1 of the Special Needs Grant programme which required the applicant to have an immediate need to purchase food, and no resources to meet that need which was caused by an essential expense which left insufficient money to buy food.

- [24] Ms Katona said that the Ministry did not accept that the handwritten note produced by the appellant verified the costs which he said he had incurred in getting his machine repaired.
- [25] This handwritten note, dated 31 March 2018, recorded that the appellant paid \$220 in cash to Ivan Heslop Appliance Repairs. There was an address on the note however Ms Katona said that the Ministry was unable to find any records of a company with that name or anything that indicated this repair was carried out by a genuine repair person or business.
- [26] At the hearing Ms Katona recorded the benefit payments and assistance that the appellant had received, after deductions, in the relevant week. He agreed with this record: Tuesday 27 March 2018 - \$672.88; Tuesday, 3 April 2018 - \$675.82. She questioned why he had no funds for food on 4 April 2018.

Discussion

- [27] On 4 April 2018 the appellant received \$95 which meant that he had the maximum entitlement under the Special Needs Grant food grant in a 26-week period. He was only entitled to further assistance if he demonstrated that there were exceptional circumstances.
- [28] The appellant argues that WINZ must have accepted that exceptional circumstances existed because he was granted \$95. Even if WINZ did reach this conclusion at the time, the Authority is not bound by that decision and is required to re-make the decision under appeal.
- [29] The first issue we must determine, before we consider whether there were exceptional circumstances for the appellant, is whether we accept the cost of repair which he says was the reason for needing assistance to pay for food.
- [30] We do not accept the appellant's evidence that he paid \$220 cash to repair his washing machine. In circumstances where he has pleaded guilty to dishonesty charges, and his dishonesty was related to appliance repair businesses, we do not accept a handwritten note without further verification as evidence that the appellant paid for repairs to his washing machine in this instance.
- [31] For these reasons we conclude that on 4 April 2018 the appellant was not entitled to the further assistance he seeks.

Order

[32] The appeal is dismissed.

Dated at Wellington this 8th day of March 2019

S Pezaro
Deputy Chair

K Williams
Member

C Joe
Member