

**IN THE DISTRICT COURT
AT WELLINGTON**

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

[2021] NZACC 63

ACR 181/19

UNDER	THE ACCIDENT COMPENSATION ACT 2001
IN THE MATTER OF	AN APPEAL UNDER SECTION 149 OF THE ACT
BETWEEN	LYNLEY CARR Appellant
AND	ACCIDENT COMPENSATION CORPORATION Respondent

Hearing: 13 April 2021
Held at: Auckland/Tāmaki Makaurau

Appearances: M Darke for the appellant
F Becroft for the Accident Compensation Corporation

Judgment: 20 April 2021

**RESERVED JUDGMENT OF JUDGE P R SPILLER
[Vocational independence – s 107 Accident Compensation Act 2001]**

Introduction

[1] This is an appeal from the decision of a Reviewer dated 28 June 2019. The Reviewer dismissed an application for review of the Corporation’s suspension of Ms Carr’s weekly compensation entitlement on the grounds that she has vocational independence (VI).

Background

[2] Ms Carr was born in June 1963. She left school in 1978 and then worked successively as a produce assistant, a presser for dry cleaners and an assistant with a

book wholesaler. In 1987, she left the workforce and raised her family. In 2001, she was employed as a fragrance store person with a duty-free store, where she remained until 2009.

[3] From 2008, Ms Carr showed symptoms of a gradual-process work-related injury involving the left upper limb (diagnosed as ulnar nerve compression/palsy or cubital tunnel syndrome). The main ongoing symptoms were described in terms of pain affecting the left neck, arm, forearm and hand, and some paresthesia (tingling or prickling) in her left hand.

[4] By mid-2009, ulnar nerve entrapment in Ms Carr's left elbow was diagnosed, and decompression surgery was recommended. Ms Carr then ceased work altogether and weekly compensation payments commenced.

[5] On 8 October 2009, the ulnar nerve decompression surgery on Ms Carr's left elbow proceeded with Mr John Tonkin, orthopaedic surgeon. Mr Tonkin provided a number of post-surgical reports. In December 2009, he noted a slower recovery than had been anticipated. Nevertheless, he thought that Ms Carr's elbow pain would settle over time and her hand strength would probably improve. Mr Tonkin advised that Ms Carr should be able to expect a return to work in the New Year.

Occupational and Medical Assessments and Rehabilitation

[6] In January 2010, Ms Carr was referred for an Initial Occupational Assessment (IOA) with Ms Lee Brodie. In her report, Ms Brodie set out Ms Carr's employment history, which included over 19 years of full and part-time work. Ms Carr's transferrable skills were identified. It was noted that she had only basic numeric and computer skills, but she was competent in reading and writing and had previously used a computer to load stock data into systems. Ms Carr categorised her skills as mainly physical. Ms Brodie identified 12 job options that were vocationally suitable for Ms Carr and advised that she was particularly interested in a mobile merchandiser or a retail sales assistant role. In terms of vocational barriers, Ms Brodie identified a loss of personal confidence. Ms Carr had some interest in roles that demanded customer contact and communication. Ms Brodie recommended one-

to-one vocational coaching support to locate permanent employment opportunities in the marketplace, write cover letters, apply for positions by telephone and internet, and interview for employment.

[7] On 17 February 2010, Dr Siobhan Gavaghan, occupational medicine specialist, completed an Initial Medical Assessment (IMA). She noted that Ms Carr had a full range of movement but that it could be up to two years before there was a full recovery from the surgery. Dr Gavaghan recommended an activity-based programme for strengthening and thought it would likely be 12 to 18 months before Ms Carr had recovered sufficient strength for medium to heavy work. Dr Gavaghan identified three sales-related job options which she considered would, at that stage, be suitable from a functional perspective. She also identified several other jobs that were potentially suitable once some strength had been regained. Dr Gavaghan thought it unlikely that Ms Carr would be able to return to her pre-injury employment because of the degree of manual handling required but did not exclude the possibility in the future.

[8] On 20 April 2010, Mr Tonkin reported again and indicated that Ms Carr complained of the same symptoms as pre-operation, tenderness over the elbow and partial numbness and weakness around the ulnar.

[9] On 4 May 2010, nerve conduction studies confirmed a dramatic improvement in conduction. Ms Carr commenced physiotherapy.

[10] On 28 May 2010, Mr Tonkin reported, noting the nerve conduction studies, and anticipating that over time, Ms Carr would make a full recovery.

[11] In October 2010, Dr Christopher Strack, specialist occupational physician, completed a report for the Corporation. He noted Ms Carr's ongoing, quite widespread, pain. He also noted psychosocial stress/distress and mood-related issues and thought that those factors were contributing to the overall clinical picture. He queried the relationship between ongoing symptoms and any gradual process injury. He anticipated an improvement in symptoms and thought, at that stage, that Ms Carr was likely fit for light to sedentary vocational activities not involving significant

heavy or forceful left upper limb manual activity. If a suitable vocational activity was identified, she was likely to be capable of working on a full-time basis.

[12] On 13 March 2012, a further IOA was undertaken by Ms Marea Brown. She identified a number of suitable job options, and suggested computer training because Ms Carr had undeveloped skills in using standard software programmes and the like.

[13] On 12 February 2013, Mr Adam Durrant, orthopaedic surgeon, provided a report. He described ongoing problems with pain around the ulnar aspect of the elbow radiating down to the forearm and into the hand. Ms Carr took medication to try to control the neurologic symptoms but the medication made her drowsy. She reported her main symptom as a sense of numbness in the hand. He organised for repeat nerve conduction studies. On 26 February 2013, these studies confirmed that there was normal conduction but also showed evidence of old neurogenic changes within the nerve itself, fitting with Ms Carr's symptoms.

[14] On 30 May 2013, a further IMA was completed by Dr Evan Dryson, occupational medicine specialist. He noted ongoing impaired function of the ulnar nerve to the left hand with weakness of the intrinsic muscles of the left hand and reduced grip strength. He assessed that Ms Carr would not be capable of undertaking work that was more strenuous than sedentary to medium physical demand with the left arm. He identified four roles, three of which were sales roles, as being suitable for Ms Carr. He assessed that, though further recovery might occur, Ms Carr's impairment was permanent. He, therefore, suggested that the focus be on vocational rehabilitation, that is, finding work which Ms Carr was capable of within her limitations. She was subsequently referred for a work readiness programme and attempts were made to source a suitable work trial.

[15] On 2 December 2013, Ms Carr signed an Individual Rehabilitation Plan in terms of which she agreed to take part in a work readiness programme to help build up skills and abilities and would also look at a suitable work trial.

[16] On 17 June 2014, Dr Dryson completed an IMA reassessment in which he considered additional light roles (to broaden the pool of jobs that could be considered for a work trial).

[17] On 2 July 2014, Ms Carr was referred to psychological services to help her with anxiety management and to provide coping strategies for any issues that arise during her work readiness programme. She duly attended a clinical psychology assessment on 18 July 2014 and, thereafter, clinical psychology sessions. Reporting along the way indicated that she was making progress in therapy and managing her anxiety in the context of returning to work.

[18] In October 2014, Ms Carr commenced a four-week work trial as a shop assistant at an SPCA outlet. On 28 October 2014, an outcome report for the work readiness programme noted that Ms Carr had demonstrated the ability to work 20 hours a week but her pain levels were still high. Ms Carr reported that she had difficulties during the trial with moving clothes on and off racks, particularly when she tried to use her left arm. Her stress was exacerbated by the fact that her mother was dying of cancer.

[19] On 1 December 2014, a psychological services completion report noted that Ms Carr had demonstrated a significant improvement in her anxiety and checking behaviours. In her work trial, she had found it difficult in some weeks to maintain an increase of hours due to increased pain in her arm and her hours had been reduced. She was now coping as reasonably as could be expected with her mother's dying.

[20] On 2 March 2015, Mr Durrant provided an updated report, noting that Ms Carr was still experiencing irritability of the ulnar nerve. He referred to the work trial and indicated that Ms Carr was enjoying the work but had difficulties building up her hours (beyond four hours a day). He suggested seeing a pain specialist for some form of nerve modulation and hoped that that might assist her in increasing her work hours. Subsequently, a referral to a pain specialist was made.

[21] On 1 July 2015, Dr Samir Anwar, consultant in rehabilitation medicine, noted that Ms Carr had developed some features of complex regional pain syndrome along

the distribution of the left ulnar nerve as a result of the original injury. Although there were signs of recovery, there was chronic nerve irritability and sensitisation. Her work trial had come to an end and she was currently not working. He made various recommendations in terms of medication and recommended trialling a TENS machine operated by a physiotherapist. He concluded that Ms Carr had developed a pain condition as a result of the covered injury. In a follow-up report on 12 August 2015, Dr Anwar noted that Ms Carr tended to develop side-effects from medication, so non-pharmacological pain management modalities, like a TENS machine, were recommended.

[22] In August 2015, the Corporation approved training for an independence programme. The TENS machine was unsuccessfully trialled. However, subsequent pain management training during the programme was reportedly effective and Ms Carr was able to make changes in relation to, for example, the amount of housework that she undertook.

[23] In March 2016, Dr David Prestage, consultant occupational physician, undertook a further IMA. He identified five roles as likely being medically sustainable, including two clerical roles and three sales roles. Following Dr Prestage's assessment, there was a further psychological referral to ascertain whether any further services in this regard were required. Further psychological sessions were arranged to address and minimise Ms Carr's anxiety, depression and issues in relation to sleep.

[24] On 30 September 2016, a psychological services progress report recorded that Ms Carr had commenced anti-depressant medication which had had a positive impact on mood, sleep and anxiety. Insight was significantly improving, she was utilising learned skills to good effect, there had been a notable shift in self-confidence and there was a reduced intensity of anxiety. A further report of 15 March 2017 noted that progress had been slow and steady, with some excellent gains.

[25] On 29 August 2017, a work readiness plan and progress report noted that a vocational consultant would provide Ms Carr with the vocational skills and tools

needed to achieve work readiness in the roles identified in the IMA report, and the IOA had identified that she would need to update her computer skills to become work ready for certain of the roles. Coaching and other facilities would also be available to her.

[26] On 7 September 2017, Ms Carr underwent a mental injury assessment with Dr Maren Klum, psychiatrist. The assessment noted ongoing pain and low mood, alongside anxiety. Dr Klum thought that there might be issues with symptom validity and noted significant precipitating factors including frequent migraines, mood swings and irritability. Provisional diagnoses of depression and anxiety were made and Dr Klum recommended further psychological sessions.

[27] In October 2017, a computer training completion report confirmed that Ms Carr had successfully completed the computer course and improved her competence and confidence across a range of areas.

[28] On 31 October 2017, Dr John Collier, psychiatrist, undertook a further psychiatric assessment. He assessed that her presentation was consistent with a dysphoria (low mood) associated with marked anxiety and decompensation of personality traits. She presented with no desire to return to the workplace but she appeared to be functioning in a similar manner by her lifestyle. Dr Collier did not identify any clinically significant condition nor did he think that Ms Carr's current personality decomposition was causally related to the 2008 physical injury. He discussed with Ms Carr the importance of work and routine activity, medication, and psychological treatment.

[29] On 8 March 2018, the Corporation issued a decision declining Ms Carr cover for mental injury.

[30] On 31 May 2018, Dr Ben Cheesman, occupational physician, undertook a medical case review. He concluded that Ms Carr was capable of undertaking suitable light work as previously identified in the various IMAs.

[31] On 27 July 2018, a further IMA was undertaken by Dr Rod Douglas, occupational physician. He acknowledged Ms Carr's ongoing pain, but nevertheless concluded that she was fit to undertake light work, identifying five job options (two clerical and three sales) which he considered to be sustainable.

Vocational Independence Assessments

[32] Ms Carr's file was subsequently considered for a referral for VI. In September 2018, it was signed off as being suitable for assessment as all vocational rehabilitation was complete and that there was a likelihood that Ms Carr would be able to sustain 30 hours of work per week.

[33] On 2 October 2018, Ms Carr's general practitioner, Dr Gary Collinson, completed a VI questionnaire, noting that she might be able to undertake other types of employment, in particular "[p]ossibly low stress, low demand jobs like a sales assistant".

[34] On 2 October 2018, the VI Occupational Assessment (VIOA) was completed by Ms Carolyn Field. She noted the rehabilitation that had been completed to date, Ms Carr's work experience, her education, and her transferrable skills. In relation to those skills, Ms Field noted that Ms Carr had completed computer training in 2017, she had a self-reported very basic level of word processing and spreadsheet skill, and was confident in using the internet and email. Ms Field also referred to Ms Carr's pre-incapacity earnings of \$52,045.06 per annum. Ms Field went on to list 12 job options that she considered would be appropriate for Ms Carr based on her skills. Ms Field did not identify any vocational barriers to Ms Carr successfully obtaining work in those jobs. Included amongst the job options were: sales assistant (Clothing, footwear and accessories), sales assistant (pharmacy and health remedies), sales assistant (food, drinks and general groceries), sales assistant (cosmetics), dispatch and receiving clerk, and stock clerk.

[35] On 13 November 2018, Dr David Rutenberg, occupational medicine specialist, completed a VI Medical Assessment ("VIMA"). He acknowledged Ms Carr's ongoing symptoms of pain, numbness and tingling affecting her left hand.

He considered it unlikely that she would be able to manage in work roles that required repetitive forceful gripping actions and where she had to adopt constrained, forceful postures of the affected non-dominant left hand. However, he was of the view that rehabilitation was complete and that Ms Carr would be able to integrate into appropriate work environments within biomechanical restrictions. He identified six job options as being medically sustainable and in a full-time capacity. These were: sales assistant (clothing, footwear and accessories), sales assistant (pharmacy and health remedies), sales assistant (food, drinks and general groceries), sales assistant (cosmetics), dispatch and receiving clerk, and stock clerk. Ms Carr commented that she could do the sales assistant (cosmetics) role, and appeared open to the dispatch and receiving clerk role.

[36] On 4 December 2018, the Corporation issued a decision advising Ms Carr that she had achieved VI and that her weekly compensation would cease accordingly on 1 March 2019.

[37] On 22 January 2019, Ms Carr lodged an application for review, on the basis that she was not VI.

[38] On 29 May 2019, review proceedings were held. On 28 June 2019, the Reviewer dismissed the review, on the basis that the Corporation's decision was based on valid assessments which had not been shown to be flawed in any significant way.

[39] A Notice of Appeal was subsequently lodged.

Relevant law

[40] Section 6 of the Accident Compensation Act 2001 ("the Act") defines VI as follows:

... in relation to a claimant means the claimant's capacity, as determined under s 107, to engage in work—

- (a) for which he or she is suited by reason of experience, education, or training, or any combination of those things; and

(b) for 30 hours or more a week.

[41] Section 107(1) of the Act provides that the Corporation may determine a claimant's VI where that claimant is in receipt of weekly compensation. Section 108 notes that a VI assessment must consist of an occupational assessment and a medical assessment. Section 109 provides that the Corporation may determine a claimant's VI at such reasonable intervals as it considers appropriate. Under s 111, a determination that a claimant has VI is to be regarded, *inter alia*, as a determination that the claimant is no longer incapacitated. Section 112 provides that a determination of VI under s 107 results in a claimant losing his or her entitlement to weekly compensation three months after the date upon which the claimant is notified of that determination.

[42] In *Martin v Accident Compensation Corporation*, Young J stated:¹

(c) ...the reviewer or District Court [is] to consider all the relevant evidence and to decide if they are satisfied the claimant is vocationally independent. The medical assessor's opinion is to be given no preeminence solely because of its statutory basis;

...

(e) in assessing expert medical evidence factors such as (non-exhaustive) the extent and relevance of the practitioners' qualifications and experience, the comprehensiveness of the evidence gathered, the quality of the report, where the preponderance of opinion lies and the validity of criticism of other medical opinions, will all be relevant in deciding the ultimate question.

[43] In *Wildbore v Accident Compensation Corporation*, Judge Cadenhead stated:²

The recent decision of *Bondarenko* (173/05) held that the vocational independence assessment process is not to be examined in a mechanical and rigid way. Rather, what is required is a common sense application of the legislation to the requirements of the procedure.

¹ *Martin v Accident Compensation Corporation* [2009] 3 NZLR 701 (HC) at [36].

² *Wildbore v Accident Compensation Corporation* DC Wellington, 94/2006, 11 April 2006 at [53].

[44] In *Milne v Accident Compensation Corporation*, Judge McGuire stated:³

Reference to the social contract that underpins the ACC system has been referred to and commented on numerous times over the years and in the case of rehabilitating an injured person to a point where he or she is able to take gainful employment once again is rightly regarded as important. It is important for the individual themselves and it is important for their place in society. That is not to say that the pathway back to employment will be a smooth one. There will inevitably be significant challenges ahead for anyone in a similar position to the appellant making that transition to a new and different employment role.

While it is accepted that the appellant is plainly a person much more at home in the sorts of employment roles he carried out prior to his injury, working with his hands and labouring, product assembly, concrete cutting and as a fire sprinkler fitter, his new proposed roles will require a period of adjustment and present as unfamiliar and "outside the appellant's comfort zone".

However, I find that the Corporation for its part has carried out its obligations and its role in bringing the appellant to a point of vocational independence as defined by s 6. Whilst the computer course that the appellant successfully completed may have not resulted in the appellant achieving a level of ease and familiarity with computer tasks that would be required in the new roles, I am satisfied that they are adequate for the purposes of his initial entry in to one or other of the identified work roles.

Discussion

[45] The issue in this case is whether the Corporation correctly found that Ms Carr had achieved VI with the result that she lost her entitlement to weekly compensation. VI is a claimant's capacity to engage in work for which she is suited by reason of experience, education, or training, or any combination of those things (s 6 of the Act). A VI assessment must consist of an occupational assessment (VIOA) and a medical assessment (VIMA) as per s 108. Following such assessment, the Corporation may determine that a claimant is vocationally independent and, as a result, loses her entitlement to weekly compensation (ss 107 and 112 of the Act).

Assessments and rehabilitation preceding Ms Carr's VIOA and VIMA

[46] In 2009, ulnar nerve entrapment in Ms Carr's left elbow was diagnosed, she ceased work altogether and weekly compensation payments commenced. In December 2018, the Corporation advised Ms Carr that she had achieved VI, and that her weekly compensation would therefore cease.

³ *Milne v Accident Compensation Corporation* [2019] NZACC 99 at [60]–[62].

[47] In the period of over eight-and-a-half years preceding Ms Carr's VIOA and VIMA assessments, she was repeatedly assessed by occupational and medical assessors as being capable of engaging in suitable work and she underwent a variety of vocational rehabilitation to assist her to this end. The Court notes the following facts:

- (a) Ms Carr underwent two occupational assessments (in January 2010 and March 2012) which both identified job options (including sales and clerical positions) that were suitable for Ms Carr.
- (b) Ms Carr underwent numerous medical assessments (in February and October 2010, May 2013, June 2014, March 2016, and May and July 2018) by occupational medicine specialists which consistently identified light to sedentary vocational activities (such as sales and clerical roles). In October 2018, her general practitioner noted that she might be able to undertake employment in low-stress, low-demand jobs like a sales assistant.
- (c) Ms Carr received rehabilitative training and support, including physiotherapy (in May 2010), a work readiness plan which she agreed to (in December 2013), a clinical psychology assessment and clinical psychology sessions (in July 2014), a work trial as a shop assistant (in late 2014), further psychological services which reflected improvements (through to December 2014), pain management training which was reportedly effective (after August 2015), further psychological treatment which showed improvement (through to September 2016), and computer training (through to October 2017).

Ms Carr's VIOA and VIMA

[48] In October 2018, a VIOA was completed by an occupational assessor, Ms Field. She noted Ms Carr's rehabilitation, her work experience, her education, and her transferrable skills. Ms Field listed 12 job options that she considered would be appropriate for Ms Carr, based on her skills, and commented that there were no

vocational barriers to Ms Carr successfully obtaining work in those jobs. Included amongst these job options were four sales assistant roles and two clerical positions. Ms Carr expressed some openness to certain of the sales assistant roles and one of the clerical roles.

[49] In November 2018, a VIMA was completed by an occupational medicine specialist, Dr Ruttenberg. His qualifications include MB ChB, MSc (Medicine) and Diploma in Occupational Medicine, and he is a Fellow of the Australasian Faculty of Occupational and Environmental Medicine. He reviewed 51 assessments, reports and other documents relating to Ms Carr's condition, and he conducted an examination of her. He recorded that Ms Carr reported constant numbness and tingling affecting her left hand, spasms affecting her fingers, pain levels of 7 out of 10 in severity, and broken sleep patterns. Dr Ruttenberg asked Ms Carr about her feeling regarding her return to work. She reported that part of her liked the interaction of working with people, but her confidence was down. She expressed confidence that she would manage in an appropriate work environment but was scared that she might experience spasms in her left hand fingers. She thought that she would manage with a gradual return to work plan and she could not identify any outstanding rehabilitation.

[50] Dr Ruttenberg was of the view that rehabilitation was complete and Ms Carr would be able to integrate into appropriate work environments within biomechanical restrictions. Dr Ruttenberg identified six job options, being four sales assistant roles and two clerical positions, which were medically sustainable and in a full-time capacity. Ms Carr expressed her ability to do one of the sales assistant roles and some openness to one of the clerical roles.

[51] In December 2018, the Corporation decided, in light of the above VIOA and VIMA assessments, that Ms Carr was vocationally independent and that her weekly entitlement would cease.

Assessment of Ms Carr's submissions

[52] Ms Carr submits that she is not vocationally independent primarily because of ongoing pain. She points to the failure of the 2014 work trial, her ongoing pain symptoms, her limited skill base - including the fact that she has not worked for 11 years, her low level of computer literacy, and the generic nature of the job options. Ms Carr submits that Dr Ruttenberg did not adequately discuss pain and its effect in his assessment, did not take into account her psychological issues, and did not refer to the 2014 work trial.

[53] The Court acknowledges that there is substantial evidence that, since 2008, Ms Carr has had ongoing pain issues affecting the left neck, arm, forearm and hand. Her pain issues have been repeatedly recorded by medical specialists. Also recorded have been Ms Carr's psychological issues, including loss of confidence, stress, distress and mood-related issues.

[54] However, occupational medicine specialists have acknowledged Ms Carr's pain levels and nonetheless considered her fit for suitable vocational activity (see, for example, Dr Strack's report in October 2010 and Dr Douglas' report of July 2018). Further, the rehabilitation programmes that Ms Carr underwent reported improvements in her anxiety levels and coping strategies. Ms Carr's work trial during 2014 was initially successful but ended for a variety of reasons including her pain, the nature of the work that she was required to perform and the external stress of her mother's terminal illness.⁴

[55] The occupational assessment of Ms Field noted Ms Carr's work experience and listed her transferable skills acquired during the vocational rehabilitation period. Ms Field concluded that Ms Carr had a range of skills and abilities and had the knowledge and experience for the job options recommended. Dr Ruttenberg also recorded Ms Carr's employment history as part of his report, before presenting the roles that he considered were medically sustainable for 30 or more hours per week.

⁴ See above at [18].

[56] Dr Ruttenberg, in his report, specifically acknowledged Ms Carr's ongoing symptoms of pain, numbness and tingling affecting her left hand. In light of her pain, he considered it unlikely that she would be able to manage in work roles that required repetitive forceful gripping actions and where she had to adopt constrained, forceful postures of the affected left hand. However, he was of the view that rehabilitation was complete, and that Ms Carr would be able to integrate into appropriate work environments and within biomechanical restrictions. Dr Ruttenberg read the reports concerning Ms Carr's psychological issues, and he asked for and recorded her feeling regarding her return to work. There was a gap of four years between Ms Carr's work trial and Dr Ruttenberg's assessment, and it is understandable that the trial was not referred to in light of Ms Carr's numerous assessments and rehabilitation programmes during this time.

[57] The job options identified by Dr Ruttenberg were of a specific, rather than generic, kind. The four sales assistant roles were geared towards specific areas: clothing, footwear and accessories; pharmacy and health remedies; food, drinks and general groceries; and cosmetics. The two clerical roles were also directed towards specific areas: dispatch and receiving and stock.

Conclusion

[58] This Court finds that Ms Carr has not established that the decision of the Corporation, suspending her weekly compensation entitlement on the ground that she has VI was incorrect. The Corporation carried out its rehabilitation obligations and its role in bringing the appellant to a point of VI. The occupational assessment and medical assessment processes were conducted in accordance with the Act. The Court is satisfied with the expert medical evidence, in terms of the extent and relevance of the medical assessor's qualifications and experience, the comprehensiveness of the evidence gathered, and the quality of the report. The medical assessment report is supported by previous occupational assessments and numerous previous medical assessments, which are broadly in line with the final recommendations. The medical assessment is not contradicted by other medical opinion. The fact that Ms Carr may well encounter significant challenges making the

transition to a new and different employment role, particularly in light of her ongoing pain, is acknowledged, but is not seen to prevent her VI.

[59] The decision of the Reviewer of 28 June 2019 is therefore upheld. This appeal is dismissed.

[60] I make no order as to costs.

A handwritten signature in black ink, appearing to read 'P R Spiller', is written over a faint, circular watermark or stamp.

P R Spiller
District Court Judge

Solicitors: Medico Law, Auckland for the respondent