

[2021] NZSSAA 5

Reference No. SSA 38/20

IN THE MATTER of the Social Security Act 2018

AND

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

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

S Pezaro - Deputy Chair

J Ryall - Member

Hearing at AUCKLAND on 15 December 2021

Appearances

The appellant and Kaye Brereton, advocate, by audio link

C Hunt, counsel, and P Siueva, appeals officer for the Ministry of Social Development,
in person

DECISION

Background

[1] XXXX (the appellant) appeals the decision by the Ministry of Social Development on 21 January 2020 to decline to pay an Emergency Housing Grant of \$2,198 for her to stay at the QT Wellington Hotel. The decision was confirmed by a Benefits Review Committee on 30 June 2020.

[2] The appellant is a single parent with one dependent child. The appellant suffers from back pain, fibromyalgia and stress and has received various forms of assistance from the Ministry since 1996.

- [3] The appellant lived in social housing in Wellington from 2017 until January 2019 when she relocated to Auckland for employment. In February 2019 the Ministry provided financial assistance for her to move into a rental property in Auckland however in March 2019 she ceased employment. The Ministry assisted her in May 2019 when she moved to another Auckland property. The Ministry then assisted with travel costs to enable the appellant to relocate to [City] on 11 June 2019 to stay with her grandmother until she could find accommodation in the area.
- [4] The appellant then sought assistance to relocate to Wellington and was accommodated in pre-arranged emergency housing until 7 September 2019 when she moved to private rental accommodation in Wellington. At this time the appellant had full time employment and was receiving a non-beneficiary Accommodation Supplement and Temporary Additional Support.
- [5] On 10 January 2020 the appellant's then advocate advised the Ministry that her employment had come to an end and an emergency housing application needed to be made because she had to vacate her current tenancy as she could not afford the rent. At that stage she had given notice to the property manager.
- [6] On 21 January 2020 the appellant provided a quote to the Ministry for an Emergency Housing Grant of \$2,198 for seven nights' accommodation from 22 to 28 January at the QT Hotel. The Ministry declined this application for assistance but offered an alternative option of more affordable emergency housing at the Rise Hostel, a Ministry registered supplier of emergency housing. The rate for seven nights was \$860 for a twin share room with a kitchenette and ensuite.
- [7] The appellant rejected the Rise Hostel on the basis that she considered it did not meet the needs of her and her daughter.

The issue

- [8] The Ministry accepted the appellant had a need for emergency housing at the date of her application. Therefore the only issue we must decide is whether the appellant was entitled to a grant for the cost of emergency housing at the QT Hotel.

The case for the appellant

- [9] The appellant said the Ministry granted an earlier application for an Emergency Housing Special Needs Grant for accommodation at the QT Hotel in July 2019 for six nights. She stayed at other emergency housing providers but had a very bad experience in one case where she and her daughter witnessed a domestic assault. The appellant said this had a significant impact on them because of past experiences and threats the appellant said they received from the people involved in the incident.
- [10] The appellant said she went to the Rise Hostel in January 2020 after the Ministry recommended it but saw the people involved in this incident around the Rise Hostel. She did not go into the Rise Hostel at that time.
- [11] She also said that the Rise Hostel was not suitable as she needed full kitchen facilities to meet her daughter's dietary needs. She said that her daughter would only eat fish and chicken and could only 'stomach' food that was cooked in an oven. In response to questions from Mr Hunt the appellant said that the microwave and stove top cooking provided at the Rise Hostel were not adequate. She said that her daughter ended up sick and 'spewing up' after five days in emergency accommodation with food cooked in this manner.
- [12] In response to questions from the Authority, the appellant said that whether her daughter had allergies had not been determined and it was not possible to test her because of her age.
- [13] The appellant also said that she needed quality supportive beds because she has a spinal injury. She said that she had stayed at the Rise previously in 2018 and knew that the facilities were not suitable for her.
- [14] The appellant said she stayed at the QT Hotel, paying for it on her credit card, because she knew it was secure and met her needs. The appellant said that by staying in the QT Hotel she was prioritising her daughter's needs and was not willing to have her in accommodation that had the potential to expose her to further trauma.
- [15] The appellant agreed that she had been sent a list of emergency accommodation providers but said she did not check the ones in Lower Hutt or Porirua. She said that that the other places were not suitable for children.

[16] Ms Brereton referred to Exhibit 16 to the Ministry's report which sets out maximum rates for a Special Needs Grant for emergency housing. It sets the maximum payment rate for a sole parent with one child at \$140 per night and states that children will not be housed in a hostel. She said this indicated the Rise Hostel was not suitable for the appellant and her daughter.

The case for the Ministry

[17] The Ministry's position is that the appellant was offered suitable and more affordable alternative accommodation at the Rise Hostel at a cost of \$860 for seven nights compared with \$2,198 for the QT Hotel. The Ministry said that it had no medical evidence that she required a special bed and no evidence about the standards of beds at the QT Hotel or the Rise Hostel. Further the Ministry said that the appellant was able to meet the cost of her accommodation at the QT with the bond money refunded from her previous tenancy.

[18] At the hearing Mr Hunt said that while the Rise Hostel may not have been suitable for long term accommodation, it was reasonable accommodation for a short stay of a few days. He said that it was safe and secure. Mr Hunt said that although the Rise Hostel was not on the list of emergency housing the Ministry provided in its report, it was approved in November 2019, as shown in an email produced by the Ministry.

[19] We asked Mr Hunt why the Ministry approved the QT Hotel as being suitable for the appellant in July 2019. He said that he did not have an answer to that question.

Discussion

[20] We do not accept that the Rise Hostel was a suitable accommodation option for the appellant and her daughter because it did not comply with the Ministry's guidelines that hostels are not suitable for children.

[21] Although the Ministry approved accommodation at the QT Hotel previously for the appellant we do not accept that it was necessarily the most appropriate option for her in January 2020. However, the Ministry did not provide evidence that it could provide alternative suitable emergency accommodation at a lower rate than the QT Hotel at that time.

[22] We considered whether it was reasonable to expect the appellant to obtain quotes for alternative cheaper accommodation that met her needs. However, we consider that once the Ministry accepted that she had a need for emergency accommodation it was obliged to provide a suitable option if it did not accept her choice. As it failed to do so, we consider that in this case the appellant is entitled to be reimbursed for the cost of emergency accommodation at the QT Hotel in January 2020.

[23] We note this decision concerns a particular set of facts and should not be read as endorsing an entitlement for a person needing emergency accommodation to choose their accommodation. Our reasoning in this case to a significant degree turns on the Ministry's earlier decision to approve the same accommodation, and its proposal for accommodation that was not appropriate.

Order

[24] The appeal is upheld.

[25] The Ministry is to pay the appellant the sum of \$2,198.00.

Dated at Wellington this 5th day of March 2021

S Pezaro
Deputy Chair

J Ryall
Member