

**IN THE DISTRICT COURT
AT WELLINGTON**

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

[2023] NZACC 122 ACR 100/23

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

Judgment on the papers.

Submissions: The Appellant is self-represented
 J Castle for the Respondent

Date of Judgment: 27 July 2023

**JUDGMENT OF JUDGE P R SPILLER
[Late filing of an appeal to the District Court –
s 151, Accident Compensation Act 2001]**

Introduction

[1] The appeal in the above matter was lodged by Mr Randle on 1 June 2023. The appeal is from the decision of a Reviewer dated 19 April 2023. The Reviewer dismissed an application for review of the Corporation's decision of 31 March 2022 declining cover for Mr Randle's left side inguinal hernia injury.

[2] On 1 June 2023, Judge McGuire issued an Initial Minute which directed that Mr Randle, by 16 June 2023, formally apply for leave to file the appeal out of time and set out the reasons why the appeal was filed late. Judge McGuire also directed that the Corporation file a memorandum in response by 30 June 2023.

[3] On 28 June 2023 (notwithstanding the above deadline), Mr Randle lodged his statement submitting that the appeal was filed late because he did not receive a copy of the Reviewer’s decision until 9 May 2023. He provided email correspondence in support.

[4] On 25 July 2023, Mr Castle for the Corporation submitted that there was no material prejudice to the Corporation from the late filing and the Corporation did not oppose leave being granted.

[5] Section 151 of the Accident Compensation Act 2001 (the Act) provides:

(1) An appellant brings an appeal by sending a notice of appeal to, or filing a notice of appeal in, a specified registry.

...

(3) The notice must be received by the specified registry—

(a) within 28 days after the date on which the reviewer gives a copy of the review decision to the appellant; or

(b) ...

(c) within any longer time allowed by the District Court.

[6] Mr Randle’s evidence is that he received a copy of the review decision on 9 May 2023. He filed his appeal against this decision on 1 June 2023, which is 23 days after the date he received the review decision.

[7] In light of Mr Randle’s evidence, the Corporation’s non-opposition to the grant of leave, and the minimal period of possible lateness, this Court finds that Mr Randle has established that the interests of justice require the exercise of the Court’s discretion to sustain his application for leave to file his appeal out of time, which is accordingly granted.

[8] However, the Court draws Mr Randle’s attention to section 161(3) of the Accident Compensation Act 2001 which provides that, if an appeal is not prosecuted with due diligence, the Court may dismiss the appeal on the application of any party. Mr Randle is therefore required to comply promptly with deadlines and Court directions in the future processing of his appeal, failing which his appeal will be at further risk.

[9] There are no issues as to costs.

A handwritten signature in black ink, appearing to read "P R Spiller". The signature is written in a cursive style with a large initial "P" and "R".

P R Spiller
District Court Judge