

**IN THE DISTRICT COURT  
AT WELLINGTON**

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

**[2023] NZACC 206**

**ACR 7/23**

UNDER THE ACCIDENT COMPENSATION ACT  
2001

IN THE MATTER OF AN APPLICATION FOR LEAVE TO  
APPEAL TO THE HIGH COURT  
PURSUANT TO SECTION 162 OF THE  
ACCIDENT COMPENSATION ACT

BETWEEN ANGELINA RAPATINI  
Applicant

AND ACCIDENT COMPENSATION  
CORPORATION  
Respondent

Hearing: On the papers

Appearances: The applicant in person  
Ms F Becroft for the respondent

Judgment: 14 December 2023

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**RESERVED JUDGMENT OF JUDGE C J MCGUIRE  
[Leave to appeal to the High Court – s 162 Accident Compensation Act 2001]**

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[1] The applicant seeks leave to appeal to the High Court against a judgment of Judge P R Spiller dated 14 June 2023.<sup>1</sup> Section 162 of the Accident Compensation Act provides that a party to an appeal who is dissatisfied with the decision of the District Court as being wrong in law may, with the leave of the District Court, appeal to the High Court.

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<sup>1</sup> *Rapatini v Accident Compensation Corporation* [2023] NZACC 95.

[2] In the Judgment that is the subject of this application for leave to appeal, Judge Spiller summarised the background that had led to the appeal. The reviewer, whose decision was the subject of the appeal, had declined jurisdiction because Ms Rapatini's application for review referred to psychological services and a neuropsychological assessment, but not a decision by the corporation.

[3] Judge Spiller found that the reviewer was right to decline jurisdiction in relation to Ms Rapatini's application for review, because a decision made by the corporation was not in issue.

[4] In respect of this application, the applicant, Ms Rapatini, has filed no submissions. Rather, she has relied on the submissions she placed before Judge Spiller at the hearing of this matter on appeal on 12 June 2023.

[5] In his judgment of 14 June, Judge Spiller referred to s 134 of the Accident Compensation Act 2001 which provides for those who may apply for review.

[6] He noted at paragraph [24] of his judgment that s 135(2)(c) of the Act requires a review application identify the decision or decisions in respect of which the application is made, and he goes on to set out s 6(1) which describes what decisions are for the purposes of the Act.

[7] Judge Spiller went on to refer to what Justice Gendall said in *Hawea*.<sup>2</sup> In reference to s 6(1), His Honour said at paragraph 17-18:

... the definition section is not exclusive.

To make a decision it is to make up one's mind, to make a judgment, to come to a conclusion or resolution. Only when a decision has been made can there be a right of review and if no right of review exists then s 133(5) has no application ... the substance (of the communication in question) has to be analysed.

[8] Judge Spiller went on to find at paragraph [32]:

This Court finds that Ms Rapatini's concern as to information contained within the psychological referral of July 2020, in the absence of a complaint made

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<sup>2</sup> *Hawea v ACC* (High Court, Napier, CIV-2003-441-000607 6 July 2004)

under the code of ACC complainants' rights, is not a decision giving rise to review rights. The psychological referral and the information contained in it do not constitute a conclusion or resolution on cover, classification, entitlements or levies.

[9] Judge Spiller stated at paragraph [33] that no reviewable decision had been issued by the Corporation and therefore the decision of the reviewer dated 19 December 2022 declining jurisdiction was upheld.

[10] The question then arises as to whether, for the purposes of s 162(1) of the Act, there is a serious and arguable question of law raised.

[11] In her submissions on behalf of the respondent, Ms Becroft refers to what Judge Cadenhead said in *O'Neill*<sup>3</sup> at paragraphs 24 and 25. Judge Cadenhead emphasised that for leave to be granted: the contended point of law must be capable of bona fide and serious argument.

[12] Here, as the applicant has not filed submissions specifically in support of her application for leave to appeal, but relies on her position on appeal to the District Court in support of this leave application.

[13] Her position appears to be simply that the District Court decision is wrong. The crux of this is her belief there has been systematic and widespread collusion to deny her proper entitlements and claim management.

[14] Ms Becroft submits that in the present case, there is no decision which the applicant sought to challenge; nor did the review application cite any unreasonable delay in regard to the Corporation providing entitlements; and there was no code complaint decision to review.

[15] She notes the reviewer, Mr Munro, said in his decision of 19 December 2022:

Although Ms Rapatini raised a number of issues during the hearing which were outlined in her submission and in the correspondence that she provided none of those issues identified were reviewable decisions or are within my jurisdiction to determine.

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<sup>3</sup> *O'Neill* (decision 250/2008)

It seems that Ms Rapatini's main issue relates to information obtained from her previous employer that Ms Rapatini believes is incorrect. This information ... was included by ACC in a referral for psychological services. It seems that this issue was more appropriately dealt with through ACC's complaint system. If a complaint is lodged, ACC will investigate the complaint and make a decision as to the outcome of its investigation. That decision will have review rights and Ms Rapatini may lodge a review application if she does not agree with the decision. However, at this stage no complaint has been made and no decision has been issued by Ms Rapatini as part of this review.

While Ms Rapatini has raised issues which are serious, I have no jurisdiction to consider those matters. Therefore, I find that Ms Rapatini's review application is invalid and I dismiss the review application for want of jurisdiction.

[16] In his judgment of 14 June 2023, Judge Spiller carefully analysed the background of Ms Rapatini's interface with ACC. Judge Spiller found that at the time of the review decision of 19 December 2022 no complaint had been made by Ms Rapatini and no reviewable decision had been issued by the Corporation as part of the review. He accordingly upheld the decision of the reviewer dated 19 December 2022 declining jurisdiction.

[17] Judge Spiller in his conclusion noted that if Ms Rapatini wished to lodge a complaint under the code of ACC Claimants' Rights, "the Corporation will be required to investigate the complaint and make a decision as to the outcome of the investigation. This decision will then carry review and appeal rights."

[18] Nothing in the material before me that has been provided by Ms Rapatini addresses Judge Spiller's judgment of 14 June 2023, nor does it state where Judge Spiller's judgment is alleged to be wrong in law.

[19] The Accident Compensation Act does not allow for a general right of appeal to the High Court. Section 162 only allows for appeals to the High Court on questions of law with the leave of the District Court.

[20] In the circumstances therefore the only decision open to me is to decline Ms Rapatini's application for leave to appeal. The application is therefore dismissed.

[21] Costs are reserved.



CJ McGuire  
District Court Judge

Solicitors: Medico Law Limited, Grey Lynn