

**IN THE DISTRICT COURT
AT WELLINGTON**

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

[2024] NZACC 016

**ACR 46/22
ACR 165/22**

UNDER	THE ACCIDENT COMPENSATION ACT 2001
IN THE MATTER OF	AN APPEAL UNDER SECTION 149 OF THE ACCIDENT COMPENSATION ACT
BETWEEN	PRISTINE PROPERTY MAINTENANCE LIMITED Appellant
AND	ACCIDENT COMPENSATION CORPORATION Respondent

Judgment: On the Papers

Heard at: Wellington/Whanganui-A-Tara

Appearances: Mr I Stryder, Director of the Appellant on behalf of the Appellant
Mr C Hlavac for the Respondent

Judgment: 1 February 2024

RESERVED JUDGMENT AS TO COSTS OF JUDGE C J MCGUIRE

Background

[1] Each of these matters filed in 2022 relates to the correctness or otherwise of the annual levy classification of the appellant.

[2] Appeal ACR 46/22 was the subject of a telephone conference on 1 September 2022 at which a timetable was set.

[3] Likewise Appeal ACR 165/22 was the subject of a teleconference on 13 April 2023 at which a timetable was set. At that telephone conference Mr Stryder advised

that Appeal ACR 46/22 had been withdrawn. The withdrawal of ACR 46/22 was duly noted in the teleconference minute of 13 April 2023.

[4] Following the telephone conference of 13 April 2023 ACC's levy team carried out a further review of the appellant's levy classification. This follows advice from Mr Stryder, Director of the appellant, that Pristine Property Maintenance Limited no longer carried out gardening and turf management services and had not done so since 2021.

[5] Therefore, in a decision recorded in an email to Mr Stryder on Thursday 27 July 2023 ACC advised Mr Strider that with effect from the 2021 levy year onwards, the levy classification for Pristine Property Maintenance Limited would change from 95250 Gardening and Turf Management Services to 42440 Painting and Decorating Services.

[6] In its decision advice of 27 July 2023 ACC advised:

This change is based on our understanding that the company is no longer performing gardening or lawn mowing services and is currently engaged in general residential property repair as well as painting and cleaning. Please let us know if our understanding is incorrect or if the services offered have changed since the information was provided.

[7] Counsel for the respondent, Mr Hlavac, provided the court with a memorandum of the same date, 27 July 2023. Referring to ACC's decision Mr Hlavac submitted:

7. Because this provides a remedy sought by the appellant at paragraph 9 of the appellant's submissions, it is submitted that this resolves the substantive issue in the appeal.
8. On that basis it is respectfully submitted that the appeal should be dismissed.
9. Although it is noted that the appellant has sought costs, because the appellant is self-represented, it is submitted that no issue as to costs arises.

[8] Accordingly, the position in respect of each appeal is as follows. Appeal ACR 46/22 was withdrawn as at 13 April 2023 and Mr Hlavac submits that Appeal ACR 165/22 should be dismissed.

[9] As the remedy sought by the appellant namely the changing of its levy classification has been granted by ACC and backdated to the 2021 levy year onward, it is appropriate that ACR 165/22 be dismissed. Accordingly, it is dismissed.

[10] That leaves the issue of costs. In memoranda dated 20 January 2024 and 23 January 2024 Mr Stryder seeks awards of costs to the appellant of \$2,159 and \$1,079.50.

[11] In each of these memoranda Mr Stryder says:

These court appeals were a complex case with an enormous amount of work and hundreds of hours time preparing the cases and preparing the written submissions dated 23.6.23 for the appellant and ACR 46/22 submissions dated 14.10.22.

[12] In response, Mr Hlavac has filed a memorandum of counsel for the respondent in relation to costs dated 23 January 2024.

[13] Mr Hlavac submits that as Mr Stryder is the sole director and shareholder of Pristine Property Maintenance Limited, and is not legally qualified, he is not entitled to claim costs.

[14] Mr Hlavac notes that in another case, *Howell v Accident Compensation Corporation*,¹ Mr Stryder acted as lay advocate for the appellant and the court awarded costs to the appellant.

[15] Mr Hlavac notes that it is well established in New Zealand and in the ACC jurisdiction that a self represented litigant is not entitled to court awarded costs. He refers to *McGuire v Secretary for Justice*;² *Re Collier (A Bankrupt)*;³ and *St Clair v Accident Compensation Corporation*.⁴

[16] Mr Hlavac further submits:

Because a limited liability company is not an actual person, it can only act through its duly appointed officers. It is clear that Mr Stryder has acted in that

¹ *Howell v Accident Compensation Corporation* [2023] NZACC 85.

² *McGuire v Secretary for Justice* [2018] NZSC 116 at [88].

³ *Re Collier (A Bankrupt)* [1996] 2 NZLR 438 (CA).

⁴ *St Clair v Accident Compensation Corporation* [2022] NZACC 144.

capacity (rather than as a separately appointed lay advocate) and, on that basis, Pristine Property Maintenance Limited has been self represented.

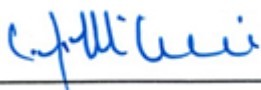
[17] He refers to the case of *Re GJ Mannix Limited*⁵, that the High Court confirmed that a company, represented by one of its officers in its proceedings, was to be treated as a self represented litigant and was not entitled to claim costs (but could claim disbursements).

[18] In his memoranda Mr Stryder notes that the appeals were complex cases “with an enormous amount of work and hundreds of hours of time preparing the cases and preparing written submissions”.

[19] The Supreme Court in *McGuire v Secretary for Justice* mentioned above discussed the issue and the acknowledged arguments in support of costs for self represented litigants which in our context would include a sole director and shareholder of a company. At paragraph [88] the Supreme Court said this:

Against that background, we conclude that, if there is to be reform to the law as it stood before *Joint Action Funding*, this should be effected otherwise than by the court. This could be done by the legislature although we think that such reform is probably within the competence of the Rules Committee. In either case, reform would occur only following appropriate consultation.

[20] Accordingly, as I am without jurisdiction to award costs to Mr Stryder as a sole director of the appellant, representing the appellant, his application for costs must be dismissed.



CJ McGuire
District Court Judge

Solicitors: Young Hunter, Christchurch

⁵ *Re GJ Mannix Limited* (1983) NZCLC 95-081 at [98]-[668].