

**IN THE DISTRICT COURT  
AT WELLINGTON**

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

**[2022] NZACC 114**

**ACR 16/21**

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

Hearing: On the papers

Submissions: The appellant was self-represented  
L Hawes-Gandar for the respondent

Judgment: 15 June 2022

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**RESERVED JUDGMENT OF JUDGE P R SPILLER  
[Claim for costs, Accident Compensation Act 2001]**

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**Introduction**

[1] This judgment concerns a claim for costs in relation to a successful appeal from the decision of a Reviewer dated 11 January 2021. The Reviewer dismissed an application for review of:

- (a) the Corporation's decision dated 10 August 2020, declining to approve funding to treat Mr Jamieson's left shoulder and cover for secondary impingement; and
- (b) the Corporation's decision of 12 August 2020, declining to accept Mr Jamieson's application for weekly compensation.

[2] On 6 May 2022, this Court found that the subacromial impingement and tear of the supraspinatus tendon in Mr Jamieson's left shoulder were causally linked to his accident injury in January 2020. Mr Jamieson's appeal was therefore allowed, and the review decision of 11 January 2021 was set aside.

[3] The Court directed that Mr Jamieson was entitled to costs and/or disbursements. The Court advised that if these could not be agreed within one month, the Court would determine the issue following the filing of memoranda.

### **Developments since the judgment of 6 May 2022**

[4] On 29 May 2022, Mr Jamieson filed a memorandum, noting that an agreement with the Corporation could not be reached. Mr Jamieson claimed:

- (a) Financial compensation from 2 June 2020 (when Mr Jamieson was medically put off work) to 12 June 2021 (when he commenced full-time employment after his successful surgery); and
- (b) Financial reparation for the financial, emotional and physical stress that the claim process had caused Mr Jamieson over the previous two years, including the loss of employment, the position held with his company for over six years, a company vehicle, financial earnings, and potential earnings.

[5] On 31 May 2022, Mr Hawes-Gandar, for the Corporation, emailed Mr Jamieson in response to his memorandum. Mr Hawes-Gandar asked Mr Jamieson for evidence of actual costs (disbursements) incurred in pursuing his appeal, such as travel costs to a hearing, printing costs for preparing a bundle of documents, or the cost of obtaining a medical report for the appeal. Mr Hawes-Gandar did not receive a response to this request.

[6] On 10 June 2022, Mr Hawes-Gandar filed a memorandum, submitting that there was no basis on which to make any costs order in favour of Mr Jamieson.

### **Discussion**

[7] As noted above, Mr Jamieson has claimed financial compensation/reparation for a wide range of costs which, he submits, flow from his claims for funding and compensation

from the Corporation. This Court accepts that Mr Jamieson may well have suffered financial loss in the course of his proceedings against the Corporation.

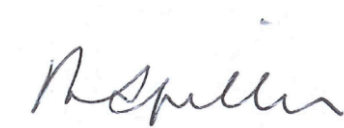
[8] However, the primary rule governing a successful litigant in person is that he or she is entitled to recover disbursements but not costs. This rule has been consistently applied in New Zealand,<sup>1</sup> and was expressed by Brett MR in the English case of *London Scottish Benefit Society v Chorley*:<sup>2</sup>

When an ordinary litigant appears in person, he is paid only for costs out of pocket. ... He has to pay the fees of the court, that is money paid out of pocket; but for loss of time the law will not indemnify him.

[9] As noted above, Mr Jamieson has had the opportunity to provide details of disbursements incurred in preparing for and attending the appeal hearing, but none has been provided.

### Decision

[10] In light of the above considerations, this Court finds no basis on which to award costs or disbursements to Mr Jamieson, and so these must be left to lie where they fall.



P R Spiller  
District Court Judge

Solicitors for the Corporation: Medico Law.

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<sup>1</sup> See *McGuire v Secretary for Justice*, [2018] NZSC 116, (2018) 24 PRNZ 350 [2019] 1 NZLR 335 at [55] and [56], and the references cited in support.

<sup>2</sup> *London Scottish Benefit Society v Chorley* (1884) 13 QBD 872 (CA), at 875 (EWCA).