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**BEFORE THE SOCIAL SECURITY  
APPEAL AUTHORITY**

**SSAA 37/22**

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**IN THE MATTER**

of an Appeal by way of Case Stated  
against a decision of the Social  
Security Appeal Authority

**BETWEEN**

Kelly Roe

Appellant

**AND**

The Chief Executive of the Ministry of  
Social Development

Respondent

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**DECISION**

NO CASE ON APPEAL TO BE STATED

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1. The Authority issued a decision in this appeal on 22 January 2025, SSAA 37/22 (the **decision**).<sup>1</sup>
2. Ms Roe filed a Notice of Appeal on 6 February 2025 to commence an appeal by way of case stated in the High Court from the Authority's decision.
3. The rights of appeal against a decision of the Authority are provided in s 405 of the Social Security Act 2018 (the **2018 Act**). Such appeals are limited to appeals by way of case stated on a question of law. There is no general right of appeal. The case stated must therefore identify an error of law that is a mistake about the meaning or application of the law.
4. My role relates to the process for stating a case, set out in s 406 of the 2018 Act.

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<sup>1</sup> SSAA 37/22 [2025] NZSSAA 02.

### **The decision appealed from**

5. The decision of the Authority that Ms Roe seeks to appeal concerned the Ministry of Social Development's decision to decline Ms Roe's request for an advance payment of benefit totalling \$22,280 to meet the cost of security for costs and filing fees for appeals filed with the Court of Appeal in 2021.
6. The decision determined that Ms Roe's situation was not one that qualified for an advance payment of benefit or a special needs grant. It was found that security for costs or filing fees were not an essential item or need, or a particular immediate need and that the proceedings pursued by Ms Roe did not constitute an emergency situation.

### **The process so far**

7. In filing her Notice of Appeal, Ms Roe also filed a Case Stated document.
8. The content of the Notice of Appeal and the Case Stated document suggested that Ms Roe's grounds of appeal may not be matters that can be progressed to the High Court as a case stated on a question of law.
9. On 18 February 2025 I issued a Minute referring to *Lawson v Chief Executive of the Ministry of Social Development (Lawson)*.<sup>2</sup> That authority makes it clear that I cannot file a case stated in the High Court unless it meets minimum standards. I noted a central element of those standards is to identify an error of law and a related question of law. My Minute also explained why the Case Stated document appeared unsatisfactory. Ms Roe was given a further opportunity to file a revised Case Stated.
10. Ms Roe has not filed a revised Case Stated.

### **My duty**

11. As already stated, I am required to apply the principles set out in *Lawson*,<sup>3</sup> which makes clear, my duty is to exercise rigour to ensure a case stated is not filed unless it does meet the threshold:

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<sup>2</sup> *Lawson v Chief Executive of the Ministry of Social Development* [2016] NZHC 910 (*Lawson*) at [125].

<sup>3</sup> *Lawson* above n 2.

[122] The extent of questions posed in these three appeals exemplifies a matter of some concern to the Court. This arises out of the volume of such cases stated and the inclusion of questions that either raise entirely well-settled and conventional applications of the law where inconsistent applications of the settled law are untenable, or contrived formulations of questions that might arguably constitute questions of law but really masquerade as a vehicle for attempting to re-argue factual findings.

...

[124] The Authority is not obliged to recognise all questions of law proposed as justifying the stating of a case for the decision of this Court. I respectfully adopt the careful analysis of the context and mode of working of s 12Q reflected in the Gendall J's judgment in *Crequer v Chief Executive of the Ministry of Social Development*. As that judgment demonstrates, the Chair of the Authority must retain final control over a case stated and ensure that a case is confined to errors of law alone and that such issues are genuinely in contention between the parties. Not every legal issue is to be submitted to the High Court. Where some have obvious answers, then there is no question to refer to the Court.

[125] I respectfully urge that the Authority exercise the requisite rigour in requiring applicants for the stating of a case to justify the gravamen of their concern as raising a genuine question of law, and that such questions of law raise some tenable basis for suggesting an error has been made.

12. In applying those principles, I provide direction and assistance when the issue is one of form, and an appellant has difficulty presenting an appealable point of law in the form that is required. I ensured Ms Roe was on notice of the requirements for lodging a case stated including providing drafting precedents and notifying her of potential sources of legal advice. I also gave Ms Roe notice that the appeal can only progress if there is a case stated which discloses a genuine question of law, and some tenable basis for suggesting the Authority's decision is in error.

#### **My evaluation of the revised draft case on appeal**

13. I must evaluate the case and either settle the case stated or issue a decision declining to state a case.
14. Ms Roe's appeal has been brought on the grounds that:<sup>4</sup>
  - (a) the Authority's decision was delivered out of time so that Ms Roe's filings with the Court of Appeal would be deemed out of time.<sup>5</sup>

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<sup>4</sup> Notice of Appeal filed 6 February 2025.

<sup>5</sup> Ms Roe's appeal was filed in May 2022. The Court of Appeal proceedings were deemed abandoned if security for costs were not paid by early 2022. Ms Roe believed that the proceedings could be restarted if she could pay. See *Roe* decision above n 1 at [15(f)].

- (b) The Authority withheld delivery of the decision in an attempt to obstruct or prevent access to justice.
15. Ms Roe seeks an order from the High Court that the decision is overturned.
16. The Case Stated document relies on the Authority's decision for the relevant facts and the grounds of the Authority's determination. Ms Roe has also stated that "[i]t is above [her] pay grade to argue the case."
17. No questions of law or fact to be resolved by the High Court have been stated. Instead, Ms Roe states again that "[i]t is above [her] pay grade to argue the case."
18. While Ms Roe is entitled to advance her appeal in whatever form she wishes, the case stated is not in a form which I can state to the High Court. I have now taken the matter as far as I can.

### **Conclusion**

19. I am satisfied that there is no foundation for the appeal as Ms Roe has:
- (a) Failed to identify a genuine question of law arising from the Authority's decision; and
  - (b) Failed to raise some tenable basis for suggesting an error has been made in the Authority's decision.
20. I am satisfied that the process for getting Ms Roe to identify a basis for an appeal is exhausted.
21. I accordingly decline to state a case.

**DATED** at Wellington 18 June 2025



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**Rachel Palu**  
Chairperson