



Supreme Court of New Zealand

19 July 2007

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**ANTHONY ARBUTHNOT v CHIEF EXECUTIVE OF THE DEPARTMENT OF
WORK AND INCOME
(SC 82/2006) [2007] NZSC 55**

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

A Benefits Review Committee established under s 10 of the Social Security Act 1964 reviewed Mr Arbuthnot's entitlements to receive a community wage and an accommodation supplement. It decided that, contrary to the position taken by the Department of Work and Income, he had not been living at the relevant time in a relationship in the nature of marriage and was therefore entitled to the community wage. But, in relation to the accommodation supplement, where the existence of such a relationship would also have been a disqualifying factor, the Committee found that he was disentitled on another ground, namely that he had changed his address without notifying the Department.

Mr Arbuthnot appealed to the Social Security Appeal Authority against the decision on the accommodation supplement. An issue arose over the Department's ability to re-argue the question of conjugal status before the Appeal Authority in circumstances where the Department had no right to appeal against the Committee's decision on the same question relating to the community wage.

The Court of Appeal, reversing the High Court, held that the Department could reargue the question before the Authority. The Supreme Court has unanimously upheld the Court of Appeal's decision. There was nothing in the Social Security Act preventing it doing so. A party which has obtained a judgment or decision in its favour is able, in the event of an appeal by the other party, to support that judgment or decision by relying upon any relevant ground, including one upon which the body appealed from may have found against it.

The Supreme Court has also concluded that no issue estoppel arose from the Committee's decision on the community wage because the Committee had conducted an internal review and was not an independent judicial tribunal. In any event, no estoppel would arise in circumstances where the Department had no right of appeal against the community wage decision.

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