

RED TAPE **SSRV NEWSLETTER**

Changes to the Social Security Appeals Tribunal

On 1 July 2015 the Social Security Appeals Tribunal (SSAT) along with other smaller tribunals including Refugee Review Tribunal (RRT) the Immigration Review Tribunal (MRT) was merged into the Administrative Appeals Tribunal (AAT).

The SSAT has been renamed the Social Security and Child Support Division (SSCSD) of the AAT. This change will not affect accessibility of clients to appeal Centrelink decisions and can be directly aligned to the work of advocates such as SSRV and the National Welfare Rights Network, who have strived to ensure that access to the user friendly Tribunal remained.

The AAT conducts independent merits review of administrative decisions made under Commonwealth laws, in SSRV's client's case, reviews of decisions made by Centrelink Officers. Appeals from decisions of the AAT (SSCSD) can be made to the AAT (General Division).

Apart from a name change there is very little change in the processes:

- In Melbourne AAT SSCS Division is still operating out from the old SSAT offices (Level 11, 565 Bourke St, Melbourne) but it is presumed that over time the various sites will be combined. Currently applications for either level of appeal can be lodged at either the AAT (Level 16 HWT Tower, 40 City Rd) or AAT (SSCS) Division office.
- A number of senior staff have had their titles changed and there have been some legislative changes.
- Previously the information about appealing to the SSAT was in the Social Security Administration Act 1999. These clauses have now been removed and the information is in the AAT Act.

Limitation dates to apply for an appeal are still the same:

- Thirteen (13) weeks to lodge an application from an Centrelink Authorised Review Officer's (ARO) review to the AAT (SSCS) Division; and then
- Twenty-eight (28) days to lodge an appeal to the AAT (General Division) second tier for 'beneficial' social security decisions.
- The fifty-two (52) week limitation date for beneficial Family Assistance decisions to the AAT (SSCS) Division remains. In these matters, appeals from AAT (SSCS) division to the AAT (General Division) remains 28 days.

There have been a number of small legal changes to the AAT (SSCS) Division process, though a number of these actually took place under the SSAT. These include the ability of the

Secretary (in practice Centrelink) to make a submission (or send a delegate) to the AAT (SSCS) Division. AAT (SSCS) Division appeals are heard by a single member as they have been since at least mid-2013.

Overall SSRV is not concerned by these changes and if anything ultimately they may generate a better process overall. We believe closer interaction between the levels of the AAT may improve the quality and consistency of AAT (SSCS) Division decisions, reducing the amount of cases that are appealed to the AAT (General Division).

The more flexible rules of evidence at the AAT (SSCS) Division level allow applicants to represent themselves in a less intimidating setting and provide evidence that would otherwise not be allowed to be taken into account. The ability to undertake phone hearings is also of value particularly for those with limited mobility or without easy access to public transport to Melbourne.

Brief Notices



JobVoice Project continues

SSRV is delighted to announce that the Ian Potter Foundation is continuing to support the JobVoice project during this financial year. As a result there will be some more information and activity around the JobVoice.org.au site in the near future including an increased social media presence. We are grateful to the Ian Potter Foundation for their continued support in this essential venture.

SSRV AGM

The SSRV AGM will be held on **Tuesday 17 November 2015** at the Neighbourhood Justice Centre (241 Wellington St, Collingwood). The eventing will start at **6pm** for refreshments, then 6.30pm for formalities.

Our special guest speaker will be **Lance Wilson** from Jobs Australia (JA). Lance will be discussing how the recent overhaul of the employment services sector has affected SSRV's vulnerable clients. JA is the peak body for non-for-profit employment service providers and Lance was on the steering committee for the JobVoice project.

The AGM is open to the general public and SSRV Members will receive an official invite either electronically or via hard copy. Please RSVPs to SSRV line/email (9481 0355 or info@ssrv.org.au) by Tuesday 10 November for catering purposes (including dietary

requirements/preferences).



Clinical Legal Education Program Update

Earlier this morning I took a phone call from a small firm wanting to employ one of our past students. Later in the morning I got an email from the student thanking me for being a referee and for whatever I said to her new employer. What I discussed on the phone is that we teach our students to run files, to talk with and manage client expectations, and as one student put it, do a lot of writing, either letters of advice or preparing written submissions.

Of course our purpose is not just to help students find jobs, although many do. Nor is it to allow us to run a lot of cases. In our pursuit of assisting legally disadvantaged people we are teaching our students to do 'good law' and of course turn them into excellent beginning lawyers.

However, what I think is the best attribute of our clinical program is that many students keep coming back long after they finish with us. As keen volunteers with a bit of an understanding of social security law, they are excellent mentors for the students, and do a lot of really good work on our behalf.

I want to thank our departing cohort of student, Deborah Itzkowic, Peter Horbury and Max Koh (who stood in for me for a week) for their assistance with the clinical program

Casework Update

Currently we have a number of cases pending decisions.

One is at the AAT General Division seeking to vary a compensation preclusion period; the other is at the AAT Social Security and Child Support Division (the old SSAT) and involves Centrelink 'granny flat' provisions. Both also involve the use of 'special circumstances' in relation to both debt and compensation preclusion periods.

We have another two Disability Support Pension (DSP) matters pending decision, and another that was a win for our client. Our client was on the DSP, but given his age (early 20's) was reviewed and lost his entitlement. Upon application with some assistance his appeal was successful.

Recently we also enlisted the support of the Ombudsman in helping a cognitively impaired client have SSAT decision implemented. The SSAT made a favourable decision for our client, however Centrelink officers failed to implement the decision.

We have another two cases like this that I am going to refer to the Ombudsman for investigation.

Case work remains busy and there are a number of Tribunal hearings coming up in the next few months.

Graham Wells

Rachel's Story Disability Support Pension

Rachel was a young student who had suffered from severe attention deficit hyperactivity disorder (ADHD) since early adolescence and had been in receipt of the Disability Support Pension since 2011. Growing up, Rachel was the victim of a number of distressing and traumatic experiences which eventually caused her to leave home at the age of 17.

Consequently, Rachel had a history of unstable housing, unemployment and self-harm. Rachel was uncomfortable travelling anywhere unfamiliar and often relied on her housemate to drive her to school. Nevertheless, Rachel was determined to complete her VCE and with the support of dedicated counsellors was able to make some progress.

Following a routine review by Centrelink, Rachel's Disability Support Pension (**DSP**) was cancelled. The reason for the cancellation was that Centrelink's assessment of the impact of Rachel's ADHD on her ability to function was that it did not meet the 20 point eligibility requirement under the Impairment Tables. This was despite substantial evidence from supporting clinical psychologists and medical practitioners confirming the severe impact this disorder had on Rachel's ability to engage in social activities, manage independent living and concentrate on tasks.

Rachel continued to receive Newstart allowance however this resulted in a substantial loss of income of over \$125 per week. The loss of income, significantly affected Rachel's ability to continue her studies as she was confronted with the additional stress of limited financial support. This eventually resulted in increased levels of depression and anxiety as Rachel was unable to pay her bills and at times even afford food. Rachel's counsellor believed the financial pressure was not only detrimental to her mental health but also compromised her physical and social functioning.

SSRV assisted Rachel to appeal the Centrelink decision to cancel her DSP to the Administrative Appeals Tribunal. The Tribunal member agreed with SSRV that Rachel's condition did in fact warrant an impairment rating of 20 points and resulted in an inability to work 15 hours or more per week. The Tribunal also agreed that the Job Capacity Assessor was at error in determining Rachel's ability to work on the basis of her TAFE attendance, particularly as Rachel had withdrawn from full-time study.

Rachel's DSP payment was reinstated which will enable her to resume her studies and manage her ADHD without having to worry about how she will afford everyday living expenses.



If you would like to assist SSRV in helping people like Rachel you can donate to our work via our website.

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NEWSLETTER



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