

Casebase Number: G0031

Title of Payment: Jobseekers Allowance



Northside Community Law and Mediation Centre
Northside Civic Centre
Bunratty Road
Coolock
Dublin 17

Date of Final Decision: 21st December 2011

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Keywords: Means—whether exceeded the weekly statutory limit—lack of documentary evidence—credibility—appeal allowed.

Organisation who assisted claimant: Northside Community Law and Mediation Centre (NCL&MC)

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Case Summary:

The Appellant applied for Jobseekers Allowance (JA), on the March 22th 2010. The claim was refused as the Deciding Officer (DO) was of the opinion that the Appellant had failed to show sufficient evidence that his means did not exceed the specified weekly limit. He provided no credible evidence to show how he had survived for the 12 years prior to the date of his claim, other than a personal statement to the effect that he had been supported by family and friends. This decision was appealed and an oral hearing granted. At the oral hearing, the Appellant provided written evidence demonstrating that he had been financially supported by family and friends. The Appeals Officer (AO) was satisfied that his means were, in fact NIL and the appeal was allowed.

Summary of Benefit(s):

Jobseekers Allowance (JA) is a means-tested payment available to people who are unemployed and who are available for, capable of and genuinely seeking employment. This payment is paid by the Department of Social Protection.

To qualify for JA an individual must satisfy a means test. The rules governing the means test are contained in *Part 2 of the 3rd Schedule of the Social Welfare Consolidation Act 2005 (as amended)* and the *Social Welfare (Consolidated Claims, Payments, and Control) Regulation 2007, S.I. 142 of 2007 (as amended)*. The amount of Jobseeker's Allowance you receive depends on your income level. The Department of Social Protection will examine all sources of income to test if they fall below a certain level. This includes income of a spouse, civil partner or cohabitant. Means assessed include cash income, including benefits received, and property owned.

Background:

The Appellant had a troubled background that caused him to leave Dublin in 2004 and go to Donegal where he began his recovery. In Donegal, he became involved with a religious community which provided him with assistance. He was also supported by his sisters and lived with friends. On his return to Dublin in 2009, he moved in with a friend and consistently but unsuccessfully sought employment. The Appellant made an application for Jobseekers Allowance on the March 22nd 2010. The Appellant had little evidence to show how he had survived for the last 12 years other than a personal statement to the effect that he had been supported by family and friends. His claim was refused on November 23rd 2010 due to a failure by the Appellant, in the opinion of the DO, to show that his means did not exceed the specified weekly limit. The Appellant sought the advices of Northside Community

Law and Mediation Centre (NCL&MC) and was represented thereafter. The Appellant appealed the decision of the DO on the basis that he had erred in respect of the facts of the case, and a request was made on behalf of the Appellant by NCL&MC for an oral hearing.

Oral hearing:

The Appellant's representative gave an account of his life and also presented evidence of the Appellant's financial means of support for the time predating his first application for JA in March 2010. Documentary evidence, in the form of written statements from the Appellant's family detailing the level of support they had provided, and statements from the Tai Chi organisation which the Appellant had trained and gained a qualification with, were provided. In regard to his current residence, the Appellant's friend provided written evidence that the Appellant was residing with him.

Date of oral hearing: 29th November 2011

Consideration of the Appeals Officer:

The AO considered the submission put forward by the Appellant detailing his background and the various avenues of financial support he availed of over the years. He also considered the documentary evidence submitted which included written statements, letters of reference and letters from the various adult education centres with which the Appellant had commenced courses. Based on the evidence presented the AO decided that the Appellant's explanation was satisfactory and that his means should be assessed as 'NIL'.

Outcome of the Appeal: Appeal Allowed

Date decision was issued to Appellant: 21st December 2011

Relevant evidence submitted by the Appellant:

The Appellant provided a number of documents to support his claim, these included;

- a written statement from the Appellant outlining his personal circumstances and his efforts to improve his employability,
- written statements from his family outlining the financial support they had provided,
- written statements from friends who provided food and accommodation,
- A statement from a particular organisation confirming his commitment to his training and a statement as to his reputation
- Letters from the various adult education centres where the Appellant was attending classes in an effort to improve his employability.

Our observations:

The Appellant's claim was refused as he lacked the documentary evidence to support his assertion that he was supported by friends and family prior to his claim for Jobseekers Allowance. The absence of an 'official' record of the Appellant's means of support for a significant period of time, presented the Appellant with an evidential barrier when trying to credibly establish his financial circumstances. It followed that the DO rejected his claim on the basis that he [the Appellant] could not prove 'nil' means. The presentation of written and oral evidence at an oral hearing provided the Appellant with the opportunity to substantiate his claims. The Appeals Officer in considering the evidence found the Appellant's assertions credible. This case highlights the burden of proof placed on a claimant when seeking a means tested payment. The Department of Social Protection are not

required to accept the bone fides of a claimant simply because there is no evidence to the contrary. Rather, the claimant must prove to the satisfaction of a DO that they have “nil” means. In the absence of sufficient evidence the Department of Social Protection may choose to apply a ‘default’ position whereby they assert that the claimant has either; failed to disclose means or, failed to supply sufficient documentary evidence.

For more information on Jobseekers Allowance, useful links are:

- **Citizens Information:**
http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/uneemployed_people/jobseekers_allowance.html
- **Department of Social Protection:**
<http://www.welfare.ie/en/schemes/jobseekersupports/jobseekersallowance/Pages/ja.aspx>
- **Social Welfare Consolidation Act 2005:**
<http://www.irishstatutebook.ie/2005/en/act/pub/0026/index.html>
- **Social Welfare (Consolidated Claims, Payments, and Control) Regulation 2007, S.I. 142 of 2007:** <http://www.irishstatutebook.ie/2007/en/si/0142.html>

For *more information*, contact us at:

Northside Community Law and Mediation Centre,
Northside Civic Centre, Bunratty Road, Coolock, Dublin 17
T: 01 847 7804 | E: info@nclc.ie | W: www.nclc.ie