

[6] In summary, the grounds for Ms Cavanagh's application were that:

- She had anticipated receiving the award of the Authority and investing that money but then agreed to a payment plan with the RSA due to its financial difficulties. She subsequently learned that she would not be able to obtain interest on the sums outstanding.
- After the determination was issued, she had other matters that required her attention, including her university study and exams, and difficulties with her rental accommodation. These were her priorities at the time.
- She says that she is seeking "true justice".

[7] In her draft statement of claim, Ms Cavanagh seeks an additional \$1,245.60 plus interest and holiday entitlements by way of lost wages, and reimbursement of

\$265 that she says were her travel and printing costs in relation to the Authority investigation.

[8] The RSA has not filed any papers in relation to this matter.

There are several factors the Court considers in such cases

[9] The factors that the Court generally considers on an application for extension of time such as this are:²

- (a) The reason for the omission to bring the challenge within time; (b) The length of the delay;
- (c) Any prejudice or hardship to any other person;
- (d) The effects on the rights and liabilities of the parties; (e) Subsequent events; and
- (f) The merits of the proposed substantive proceedings.

[10] Ultimately, however, the overall principle must be the justice of the case.

Reasons for the delay not compelling

[11] Parties to litigation who receive decisions they are not happy with generally must determine whether their priorities include challenging the decision, and if they do wish to challenge a decision, to take the necessary steps.

[12] The 28-day period for filing a challenge expired on 16 June 2017. Ms Cavanagh had three exams between 13 June 2017 and 24 June 2017. She also had difficulty with her rental accommodation that escalated after her exams had finished. She acknowledges she sought legal advice about her intention to challenge the determination but says that once her exams were over, the 28-day period for filing a challenge had passed and she had other matters to deal with. She therefore "put this matter back on [her] "to do" pile".

[13] None of the matters that Ms Cavanagh raises should have prevented her from filing her challenge within the timeframe provided for in the Act.

Length of delay is significant

[14] The Court expects that an application for extension of time will be made as soon as possible after the time for bringing a challenge has passed. The expectation is that the applicant will move with all possible dispatch.³

[15] As noted, Ms Cavanagh put this matter to one side and then attempted to file her application for an extension of time on 1 September 2017. This means there was a delay of over 10 weeks, which is significant when compared to the four weeks within which a party generally is to file a challenge.

There is no evidence of prejudice to the RSA

[16] The RSA has not responded to the application, and there is no evidence of prejudice to the RSA from the delay in filing.

Ms Cavanagh was successful in the Authority

[17] Ms Cavanagh seeks a relatively modest uplift in the sums awarded to her in the Authority. Her success in the Authority means that not granting leave would have only a limited impact on her rights.

[18] Further, if the matter were to come to the Court, the Court would have to reach its own view on the merits. Conceivably, it would be open to the Court to make an award that is less than that of the Authority.

Ms Cavanagh points to the delay after the determination in payment as one reason for her challenge

[19] While the RSA apparently has yet to pay Ms Cavanagh the amounts ordered to be paid by the Authority, Ms Cavanagh has the right to try and enforce those

orders should she wish to do so. Given the difficult financial position of the RSA, which is recognised by Ms Cavanagh and recorded in the Authority's determination, it is hard to see how her position would be improved by pursuing the challenge.

Ms Cavanagh's prospects of success are uncertain

[20] In the Authority, Ms Cavanagh presented her case without any response from the RSA. The orders of the Authority were on the basis of the information she supplied. On the limited additional information now provided, it is not possible to say that there are reasonable prospects of a more favourable outcome in the Court.

Overall justice does not require the extension of time to be granted

[21] I do not consider the justice of the case requires an extension of time to be granted.

[22] In summary, the delay in filing the application for an extension of time was significant and the reasons for the delay are not compelling. Ms Cavanagh provided the evidence to the Authority on which it based its determination, and I have not been persuaded that there are reasonable prospects of a more favourable outcome in the Court.

[23] For these reasons, the application for an extension of time to file a challenge is declined.

[24] Given the RSA has not taken any steps in relation to this application there is no order as to costs.

J C Holden

Judge

Judgment signed at 10.45 am on 17 November 2017

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