

Green v Daniels (1977) 51 ALJR 463

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Facts

- Miss Green was a 16 year old student who decided to leave school at the end of the year, and seek employment.
- She had trouble finding work so applied for unemployment benefits.
- Her application was rejected as the welfare office said that their policy (as per their manual) was that they did not accept applications until the start of the new school year, to stop students from getting the benefits dishonestly by saying they weren't returning.
- Miss Green definitely met all of the criteria, the only question was one section which said that the Director General must be satisfied the applicant is genuinely seeking work.

Issue

- Did the Director General act outside their powers by imposing the additional criteria, that wasn't in the act?

Held

- The Court held that while it may be appropriate for a decision-maker who needs to be satisfied of something (e.g. that they are genuine jobseekers) to come up with some kind of guidelines to help them, he can't impose additional criteria that isn't in the Act.
- This is especially because the Director General does not have unfettered discretion; the act provides for what they must be satisfied of.
- This was especially the case as it was a time requirement; it meant that effectively for 3 months they could not give out benefits to school leavers, which is not the purpose of the Act.
- Although Miss Green succeeded in her main claim, she did not get the remedy she wanted (backpay for the time Dec - Feb when she did not get the benefits) as the Court held it was not for them to impose their decision instead of the Director General's.

Significance

- A decision maker (especially without unfettered discretion) must not impose additional, inflexible criteria that isn't consistent with the statute, or else they will act ultra vires their power.

Quotes

- "No general discretion is conferred upon him; instead specific criteria are laid down by the Act and all that is left for him to do is to decide whether or not he attains a state of satisfaction that the

circumstances exist to which each of these criteria refer. He must, no doubt, for the benefit of his delegates and in the interests of good and consistent administration, provide guidelines indicating what he regards as justifying such a state of satisfaction. But *if*, in the course of doing this, *he issues instructions as to what will give rise to the requisite state of satisfaction on the part of his delegates and these are inconsistent with a proper observance of the statutory criteria he acts unlawfully*" [28]

Full text

- Read the full text here: <https://jade.io/article/66650>

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