C1 322/1982

JGM/BOS

SOCIAL SECURITY ACTS 1975 TO 1982

APPEAL FROM DECISION OF MEDICAL APPEAL TRIBUNAL
ON A QUESTION OF LAW

1. My decision is that the decision of the medical appeal tribunal on the diagnosis question in this case dated 10 March 1981 is erroneous in point of law and it is set aside. The matter must be referred back to a differently constituted tribunal.

2. The claimant is a person in relation to whom prescribed disease No 48 (occupational deafness) is and has ever since the disease was included among the prescribed diseases, been prescribed. He made a claim for disablement benefit in respect thereof in 1975 but the claim was unsuccessful on the ground that he was found not to be suffering from the disease in the terms in which it was prescribed under the regulations then in force. In September 1979 the terms of the prescription were altered and the claimant made a fresh claim for disablement benefit on 19 October 1979. The claim was referred to the medical authorities and a medical board on 6 August 1981 answered "NO" to the question whether the claimant was then suffering from sensorineural hearing loss due to all causes amounting to at least 50 decibels in each ear averaged over the audiometric frequencies of 1, 2 and 3 kHz. As will appear it followed from this answer that in the board's opinion he was not then in terms of the prescription suffering from occupational deafness. The medical appeal tribunal on 10 March 1981 confirmed this decision and the claimant with my leave now appeals to the Commissioner. He was represented at the oral hearing before me by Mr A B Williams of the General Municipal Boilermakers and Allied Trades Union and the Secretary of State for Social Services was represented by Mr P Millege of the Solicitor's Office of the Department of Health and Social Security. I heard evidence on the medical and technical aspects of the present case from Dr W R Henwood a Senior Medical Officer of the Department, and I was greatly assisted by his evidence.

3. The prescription of occupational deafness in paragraph 48 of Schedule 1 to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980 is as follows:-

> "Substantial permanent sensorineural hearing loss amounting to at least 50 dB in each ear, being due in the case of at least one ear to occupational noise, and being the average of pure tone losses measured by audiometry over the 1, 2 and 3 kHz frequencies."

It follows that those concerned with determining the diagnosis question will find a claimant to be suffering from occupational deafness only if he has hearing loss which is:-

(1) substantial, and

(2) permanent; and

(3) amounting to at least 50 dB (decibels) in each ear

(4) due in the case of at least one ear to occupational noise

and that for the purposes of (3) and (4) above the appropriate level of hearing loss falls to be ascertained by the audiometric measurement of pure tone losses averaged over the three frequencies 1, 2 and 3 kHz (kilohertz).

4. It is thus essential there shall be audiometric measurement of the pure tone hearing loss over the three frequencies carried out either by the determining medical authorities themselves or (more probably) by an expert audiometrician for them. The medical board and the medical appeal tribunal had before them a report on form BI 161 (OD) (A) made by a consultant otologist of pure tone audiometric tests performed by him on or about 11 June 1980. The form was completed in a somewhat confusing manner but on close examination it showed that the result of the tests by air conduction were 75 dB in the right ear and 97 dB in the left ear; and that that for bone conduction 48⅓ dB in the right ear and 55 dB in the left ear. On this the consultant stated in answer to specific questions on the form that the average sensorineural hearing loss over the three frequencies due to noise at work and ageing was 48 dB the right ear and 55 dB in the left ear; and he gave the same figures for average sensorineural loss from all causes. There was in the form a marginal instruction to the following effect:-

> "(If there is a difference between air and bone conduction levels of more than 10 dB averaged over the 1, 2, 3 kHz frequencies, the bone conduction levels should be used here)."

It will be seen that the consultant's answers were in accordance with this instruction. He indicated that he had done a "Rainville" test for bone conduction on the left side and in the space at the end of the form for "Additional Remarks" he drew attention to the fact that the bone conduction loss on the right (48⅓ dB) was very close to the 50 dB fence; and that the difference could easily be due to experimental or instrumental error; and that the claimant used (not I think for the test) a bone conduction hearing aid, so that long practice in listening to bone conducted sound made him significantly more skilful in his bone conduction threshold than the average "normal" (sic).

5. The medical appeal tribunal expressed themselves as accepting the consultant's report. In particular they accepted his answers to the question to the effect that the average sensorineural hearing loss over the three frequencies was 48 dB in the right ear; they found accordingly that he was not suffering from occupational deafness in terms of the

prescription. The Secretary of State in his submission had invited the tribunal to answer four questions, which with the answers given by the tribunal were as follows:

They were asked to indicate:-

(a) what they considered to be the average sensorineural hearing loss due to occupation noise in each ear (to which they answered "right ear - 48. Left ear 55")

(b) what they considered to be the average sensorineural hearing loss due to all causes in each ear (to which they answered "Right ear - 48. Left ear - 55")

(c) what they considered to be the average total hearing loss in each ear (to which they answered "Right ear 75. Left ear - 97")

(d) what other conditions, if any, in addition to noise induced deafness have caused sensorineural hearing loss in each ear (to which they answered "Otosclerosis".)

6. Mr Williams put forward four grounds on which I should hold the medical appeal tribunal's decision to have been erroneous in point of law. First he said that the tribunal had failed to deal with a medical report from an otologist to whom I shall refer as S beyond a bare statement that they had considered it. This report was obtained in connection with the claimant's previous claim though it was not available in time to be used in connection with it. It is based on certain audiometric tests taken in the year 1976, which are incomplete in that no recording is given of the hearing loss by bone conduction in the crucial right ear; and the general level of hearing loss then shown is less than in the more recent tests. S's report contains a strongly expressed view that the claimant's hearing loss was occupationally caused; but on the view that the tribunal took of the degree of hearing loss in the right ear, it never became necessary for them to consider the cause of the loss, and I do not consider that the decision was erroneous in law on this ground.

7. Mr Williams' second point was that the otologist had completed the form BI 161 (OD) (A) incorrectly and that this vitiated the conclusion based on it. In fact the form in question was part of the evidence relied on in the case; and the tribunal cannot be said to err in law simply because of the way in which an expert witness completed the form. It is in my judgment perfectly clear what in fact the otologist intended to indicate, even though it took me a little time to unravel it; and so long as the tribunal did not draw false conclusions from it or inadequately explain how they drew their conclusions from it (matters to which I shall come) the bare fact that the form was imperfectly completed does not render a decision which relied on it erroneous in point of law.

8. Thirdly Mr Williams said that at the hearing before the medical appeal tribunal he had made the point that the claimant had previously undergone a fenestration operation on his left ear. This, he had submitted, could have meant that the masking of the left ear

during tests on the right ear would not have prevented sounds being heard by the left ear when the right ear was being tested with the result that the hearing in the right ear could have appeared better than it really was. There is no record of this contention having been put, though it is fair to say that the point that there had been a fenestration of the left ear was made to the medical board. Assuming that this argument was put it should have been dealt with by the medical appeal tribunal (see Decision R(I) 18/61 at paragraph 13), and the decision would be erroneous in point of law on this ground alone. Mr Milledge was not able to confirm what had taken place before the medical appeal tribunal but he submitted that there were two other grounds on which the decision was unsatisfactory and I need not cause any further enquiries to be made. I accept Mr Williams's submission on this point. In this connection I add that Dr Henwood told me that the Rainville test referred to in the consultant's report is a complicated test designed to overcome inadequate masking.

9. Mr Williams' fourth point was based on the manner in which the medical board (whose decision the medical appeal tribunal confirmed) had recorded their decision. It is certainly full of corrections such as would suggest that they may have initially misunderstood the form or that they had undergone a change of mind in the course of their consideration of the case. But it is quite clear what their ultimate decision was expressed to be, and that this is the conclusion which the medical appeal tribunal intended to confirm. I would not regard the medical appeal tribunal's decision as erroneous in law on this account.

10. I come now to Mr Milledge's points. First he drew my attention to the four answers given by the medical appeal tribunal to the questions posed by the Secretary of State (which are set out in paragraph 5 above). He suggested that the answer to question (d) was inconsistent with the identical answers given to questions (a) and (b). He submitted that if there was otosclerosis causing sensorineural hearing loss the answers to questions (a) and (b) should have been different and not identical. Consequently, he submitted, one was left guessing what the tribunal really did consider. Indeed one is left with an uncomfortable feeling that they may have misinterpreted the consultant's report. I accept that on this ground it is not safe to let the decision stand.

11. Mr Milledge's other point is that the tribunal, while expressing themselves as accepting the consultant's report, paid no attention to his point about the small amount by which the claimant's bone conduction loss in the right ear fell short of the 50 dB mark being one that could easily be accounted for by instrumental or experimental error. On this point he referred me to Decision C.I. 6/77 where somewhat similarly a medical appeal tribunal had expressed themselves as accepting such a report and had (in that case) given a decision which seems to me to have been precisely at variance with the report. It was a very much stronger case than the present. Mr Milledge however submitted to me that, having accepted the report, the tribunal ought to have explained why they found it unnecessary to have any regard to the qualifications placed upon it by the consultant himself. I accept this submission also for reasons that will appear.

12. The whole appeal raises questions about the relationship of the information contained on the form BI 161 (OD) (A) to the terms of the prescription; and whether and to what extent a claimant who is found not to be suffering from occupational deafness ought to be able to follow from the reasons given by the medical appeal tribunal why the results recorded on form BI 161 (OD) (A) do not add up to occupational deafness in terms of the prescription. As I indicated in paragraph 3 above there has to be (1) substantial (2) permanent (3) sensorineural loss of hearing of a certain measured degree. I would assume that it will be taken to be substantial if it attains that degree. I apprehend that sensorineural deafness is permanent except so far as it is the temporary result of recent exposure to noise. For that reason a claimant is required to sign (as this claimant did) a declaration on the form as to the time at which he was last exposed to noise which might affect his hearing. By contrast with the words "substantial" and "permanent" the word sensorineural takes one into a technical world. Most people will need some explanation before they can translate findings in terms of hearing loss by bone conduction and by air conduction into sensorineural loss.

13. I had the advantage on this issue of a report from Dr Henwood on the matter in addition to his oral evidence. It emerges from what he wrote and said that hearing loss (or deafness) may be "conductive" or "sensorineural" or a mixture of the two. Conductive hearing loss results from the malfunctioning of the organs between the outer and inner ear or obstruction of passage of sound from the outer ear through the middle ear to the inner ear. Sensorineural loss of hearing results from the failure of the auditory receptor organ to transmit the sound message to the brain. The latter may be caused by disease or by the exhaustion of the receptor organ by excessive exposure to loud noise which has an effect comparable with the effect of continual stretching of elastic on its elasticity. It may also be caused by ageing. The air conduction levels recorded by audiometry show the hearing loss attributable to both conductive and sensorineural elements, while the bone conduction levels show the hearing loss attributable only to the sensorineural elements. The difference between the two represents the conductive hearing loss. It is thus correct to equate (as it would seem the consultant did) the figures for bone conduction loss with sensorineural loss of hearing. It would I think help claimants to understand this if there were something on the form BI 161 (OD) (A) that made this clear.

14. I come now to the measurement of the hearing loss. The prescription requires that the loss shall be the average of pure-tone losses measured by audiometry over the three frequencies. The form itself requires a pure tone air conduction audiogram and (also a bone conduction audiogram if the air conduction audiogram indicates a loss of 50 dB over the three frequencies). Here again it would be helpful if the form specifically required that the bone conduction audiogram should be pure tone audiogram, thereby indicating specifically that measurement has to be done in accordance with the prescription instead of leaving this to implication.

15. The audiometers in use are I understand normally calibrated at 5 dB intervals. A patient undergoing tests will be asked if he can

or cannot hear the sound put through the machine at various frequencies and various strengths. If it emerges, say, that he cannot over the 1 kHz frequency with a particular ear hear the tone at a strength indicating a hearing loss of 40 dB but that he can hear if it is raised to 45 dB, he will be recorded as having a hearing loss of 45 dB at that frequency though in fact the true figure may be anywhere between 40 and 45. He is thus on this issue given the benefit of the doubt. This I understand to be audiometric practice. It is recognised further that instrumental and experimental error is such that a reading of hearing loss so ascertained may be as much as 5 dB too high or too low. The prescription requires the hearing loss to be measured by audiometry. I conceive that this means that it has to be measured by instruments with such adjustments for possible error as are made in accordance with good audiometric practice. It would not however surprise me if I were told that (especially in view of the advantage to claimants of the 5 dB interval in the calibration of the instruments) it would normally be taken that on the balance of probabilities the reading actually recorded represented the actual hearing loss. That is a question of audiometric practice on which I cannot pronounce.

16. In the form BI 161 (OD) (A) the audiometrician records the actual readings obtained and he is then invited to state (1) what is the average sensorineural loss over the three frequencies due to noise at work and ageing (2) what is the average sensorineural hearing loss over the three frequencies due to all causes and (3) what is the average hearing loss over the three frequencies due to all causes. Presumably (subject to the qualification next mentioned) the audiometrician is not in answering questions (2) and (3) required simply to copy out the results of the recorded tests, which anyone qualified to do so can in fact read for himself; but he is permitted (subject as aforesaid) to make such allowances for error as good audiometric practice allows. If he does so, it will always be helpful if he gives some explanation of the adjustment in the space for additional remarks.

17. The qualification on the above is that there is a marginal note in the form, to which I have already referred, enjoining the audiometrician to use the recordings of the bone conduction levels in any case where the difference between the air conduction and bone conduction levels is greater than 10 dB. In such a case there seems to be no discretion. Dr Henwood explained this to me by saying that, if there was a chance of a 5 dB error in either direction, then it was possible that a difference of not more than 10 dB between the bone conduction and air conduction levels could be wholly accounted for by such error; in that event the apparent level of conductive hearing loss represented by such difference could in fact be non-existent. The claimant could thus in such a case be given the benefit of the doubt. This may be sound audiometric practice, but it seems to me to be a highly arbitrary way of allowing for possible instrumental error. I think it quite possible that the consultant's additional remarks about the claimant's bone conduction loss being very close to the 50 dB fence is an indication that he was not happy about the marginal note. I consider that the medical appeal tribunal should have given specific consideration to the consultant's note and, if they did not have the expertise to reach a conclusion on the matter, they should have sought expert guidance on

the point (either written or oral) before reaching their conclusion. It might be desirable for the Department to secure an expert opinion on the adjustments for instrumental and experimental error that are in general appropriate, a copy of which would be made available both to medical appeal boards and medical appeal tribunals and to claimants and their advisers. I accept for this reason Mr Milledge's submission that on his second ground also the decision was erroneous in point of law.

18. The matter has therefore to be referred back to another medical appeal tribunal which should in accordance with the unusual practice be differently constituted from that which gave the decision appealed from. In view of the lapse of time that tribunal may in any case call for a further audiometric test which (if the deterioration of the claimant's hearing between 1976 and 1980 revealed by the existing reports has continued) may reveal that on any view by now the claimant satisfies the prescription; in that case the tribunal will have to determine from what date the claimant did satisfy it.

19. In addition before they can conclude that the claimant satisfies, or at any date satisfied the prescription, they will have to be satisfied that the necessary level of hearing loss in one ear at least is or was due to occupational noise. Sensorineural loss of hearing may result in part or in whole from other things than occupational noise, and if the tribunal is satisfied that some severable part of the claimant's loss of hearing is due to some such other cause such part will of course be disregarded. But where all that can be said is that occupational noise and some other factor have combined to produce a level of hearing loss (and the questions on form BI 161 (OD) (A) would suggest that it is thought that hearing loss due to occupational noise and ageing may be in this category) then on the diagnosis question the tribunal ought to regard the hearing loss as due to occupational noise notwithstanding that it may also be due to some other non-severable factor such as ageing.

20. The claimant's appeal is allowed.

(Signed) J G Monroe
Commissioner

Date: 25 May 1983

Commissioner's File: C.I. 266/1981
DHSS File: I. 2271/5541

DGR/BJE

SOCIAL SECURITY ACTS 1975 TO 1982

CLAIM FOR INDUSTRIAL DISABLEMENT BENEFIT

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. My decision is that the claimant is not disqualified for receiving an increase of disablement benefit on account of special hardship for the inclusive period from 7 October 1977 to 30 June 1980 because, although his claim for that period made on 30 September 1981 was not made within the time limit prescribed by regulation 14 of and Schedule 1 to the Social Security (Claims and Payments) Regulations 1979, nevertheless he has proved that there was continuous good cause for his delay.

2. This is an appeal by the insurance officer against the decision of the local tribunal reversing the insurance officer's decision shown in box 1 of form LT2, the necessary leave having been given by the tribunal chairman. The claimant asked for an oral hearing, a request to which I acceded, and at that hearing the insurance officer was represented by Mr P H Wickham of the Chief Insurance Officer's Office, and the claimant by Mr J Donlon of the National Union of Mineworkers. I am grateful to them both for their submissions.

3. The exact facts of this case have not been easy to discern. On 7 October 1977 the claimant suffered a blow to his head, but no claim for disablement benefit was made until 27 March 1980. After the accident the claimant never returned to work, and as a result of a consultant's report dated 12 January 1982, it is accepted that he is permenently incapable of his regular occupation. The claimant did not receive industrial injury benefit, but throughout the inclusive period from 8 October 1977 to 17 December 1980 he was awarded sickness/invalidity benefit by reason of cervical spondylosis.

4. In his evidence to me the claimant stated that he had, prior to 27 March 1980, called, on various occasions, at the local office of the Department of Health and Social Security, and had enquired about a possible entitlement to special hardship allowance. He was supported in his evidence by his wife. According to the claimant and his wife, at no time was any enquiry as to his possible entitlement to special hardship allowance seriously entertained by the local office, seemingly because, as they pointed out to him, it was a pre-requisite of an award that he should first be entitled to disablement benefit, and he had no current award. Nevertheless, on the face of it, it is perhaps a little surprising that the local office did not invite the claimant to make a claim both for disablement benefit and special hardship allowance, but presumably because the incident of 7 October 1977 had never been treated as an industrial accident and the claimant had been in receipt of sickness/invalidity benefit, the local office took the view that there were no circumstances which suggested the realistic possibility of an award of either disablement benefit or special hardship allowance. But, be that as it may, in his written submissions dated 29 September 1982, the insurance officer - and Mr Wickham did not seek to challenge this approach - accepted that the claimant had established good cause for delay in respect of his claim to special hardship allowance throughout the period up to 27 March 1980.

5. It appears that in March the claimant decided to consult his Union. It seems that the primary purpose was to pursue a civil action against his former employers, but, in the course of discussions relating thereto, he was asked whether or not he had been awarded disablement benefit or special hardship allowance. When he explained that he had not, he was advised to go forthwith to the local office and to obtain form BI100A. This he did, and with the benefit of the advice of his Union he duly completed that form. He immediately returned with it to the local office, and asked the girl there whether it had been correctly filled in. She answered in the affirmative, and in his evidence to me the claimant was quite positive that there was no further discussion relating to special hardship allowance or, for that matter, any other issue.

6. However, the claimant vigorously pursued his claim for disablement benefit, and on 9 October 1980 he underwent a medical examination to enable the medical authorities to ascertain the extent, if any, of the disablement arising out of his accident. In the event, the Medical Board decided that there was no loss of faculty. The claimant subsequently appealed to the Medical Appeal Tribunal, who did not confirm the decision of the Medical Board, but on 10 September 1981 decided that the extent of the disablement resulting from the loss of faculty should be assessed at 2% from 11 October 1977 for life. In due course, this decision was communicated to the claimant, and on 30 September he at last claimed special hardship allowance.

7. However, in view of the rejection of his claim for disablement benefit by the Medical Board of 9 October 1980, the local insurance officer accepted that good cause for delay in claiming special hardship allowance had been shown from 1 October 1980 up to the date of claim on 30 September 1981. Mr Wickham did not seek to challenge that conclusion. Moreover, as the prescribed time for claiming special hardship allowance is 3 months from the first day on which the conditions for the receipt of that particular benefit are satisfied or from the first day of the period of continuous good cause, the claimant is clearly on any footing entitled to the allowance as from 1 July 1980.

8. However, the real question at issue is whether or not the claimant can establish continuous good cause back to 7 October 1977. I accept, following the written submissions of the insurance officer dated 29 September 1982, that the claimant has established good cause for the period from 7 October 1977 to 26 March 1980, and again from 1 October 1980 to 30 September 1981. The crucial question remains whether he can also establish good cause for the intervening period from 27 March 1980 to 30 September 1980. For, if he can, he will have established continuous good cause right back from the date of claim to 7 October 1977.

9. Mr Wickham argued that the claimant had failed to prove good cause for the vital intervening period. He had on 27 September 1980 obtained form BI100A, and although this was a claim form for disablement benefit, not special hardship allowance, it did specifically point out that certain increases might be paid in addition to disablement benefit, and it referred to special hardship allowance in the following terms:

> "Special Hardship Allowance
>
> You may be entitled to this allowance if, as a result of your accident, you are unable to get back to your regular occupation or to do other work of an equivalent standard."

Mr Wickham also pointed out that the form advised the claimant to obtain leaflet N16, where the conditions for each allowance would be explained, and that, in addition, at the commencement of the form the claimant was specifically advised to consult leaflet N16 before completing the form itself. Notwithstanding that the claimant had been alerted to the possibility of his being entitled to special hardship allowance by the express terms of form BI100A, he had not made a claim for special hardship allowance until 30 September 1981.

10. Mr Donlon, on the other hand, pointed out that, even if the claimant had consulted leaflet N16, he would not have been much the wiser. Mr Donlon said that under the heading "Special Hardship Allowance" the following words were to be found:

> "To qualify for the allowance you must have a current disablement assessment of less than 100 per cent ....."

He emphasised that it was a pre-requisite of entitlement to special hardship allowance that the claimant should have a current disablement assessment, and argued that in the present case, if the claimant had read that particular passage from the leaflet, he would have correctly concluded that he was not entitled to special hardship allowance, and that accordingly there was nothing to enquire about.

11. Against this, Mr Wickham argued that there was a later passage in the leaflet headed "How and when to claim", where advice was given in the following terms:

> "Claim as soon as you think that you satisfy the conditions for the allowance. Do not delay claiming until disablement benefit is awarded. You should get a claim form from your local Social Security office. It is very important that you complete and return the form as soon as possible, otherwise you may lose benefit for any period more than three months before the date of your claim."

Mr Wickham conceded that a person reading the first sentence, and knowing that he did not satisfy the conditions for the allowance, in that he did not have a current disablement assessment, might be forgiven for supposing that he had no title to special hardship allowance. However, there was a sentence which followed -

> "Do not delay claiming until disablement benefit is awarded" -

which clearly indicated to the reader that the mere fact that there was no award of disablement benefit was no bar to putting in a claim for special hardship allowance. Moreover, Mr Wickham submitted, the later reference to the importance of speed, in completing and returning the relevant form, would at least have put the claimant in the present case on notice that he might actually be entitled to the allowance.

12. Should Mr Wickham be right in his contention that a claim for special hardship allowance must be lodged before an award of disablement benefit is made, if a claimant is to escape the consequences of a late claim, then, in my judgment, on any footing the wording of leaflet N16 is wholly unsatisfactory. As it stands, it serves only to confuse a claimant, and it is no answer to say that, notwithstanding the muddled phraseology, a claimant ought to be able to conclude that there is at least a possibility of entitlement, and that enquiry at the local office must be regarded as obligatory. However, for the reasons hereinafter appearing, I am not satisfied that Mr Wickham is right in his basic submission that a claim to special hardship allowance must be lodged prior to an award of disablement benefit, if the consequences of delay are to be avoided.

13. Mr Donlon pointed out that it was the universal practice of his Union, in advising members, to urge them not to claim special hardship allowance until such time as they had been awarded disablement benefit. He said that, as there was no title to special hardship allowance until there was a current award of disablement benefit, there was no point in applying for the former until title to the latter had been established. A premature claim might give rise to unnecessary work and trouble. In my judgment, such an approach is eminently reasonable. Moreover I find support for this view in the unreported decision on Commissioner's File CI366/1980. In my view, a claimant has good cause for delay in claiming special hardship allowance if he refrains from so claiming in order to await the outcome of his claim for disablement benefit. Of course, he must claim immediately he knows that he has been awarded disablement benefit, but so long as he does so, he will have established good cause right back to the date when he first claimed disablement benefit.

14. Now, applying the above principles to the present case, the claimant could be said to have shown good cause from the date when he first claimed disablement benefit, namely 27 March 1980 up to the time when he was notified that he had been awarded benefit. It is accepted that there was no delay between receipt of such knowledge and the date of his actual claim on 30 September 1981. Accordingly, I am satisfied that the claimant has established continuous good cause for the entire period from 7 October 1977 to 30 September 1981, and that as a consequence he is not disqualified for receiving special hardship allowance for the period set out in paragraph 1.

15. Before leaving this matter, I would refer again to the unsatisfactory wording of leaflet N16. It should be amended in the light of the principles here set out, so as to make it abundantly clear to the reader exactly what his position is with regard to claiming special hardship allowance.

16. I dismiss this appeal.

(Signed) D G Rice
Commissioner

Date: 26 May 1983

Commissioner's file: C.I. 322/1982
C I O File: I.O. 5236/I/82
Region: North Eastern