

Single payments for Furniture - claimant's need should be approached in a subjective way - looking at her particular needs

MHJ/4/LS

Commissioner's File: CSB/1165/1986

C A O File: AO 2997/SB/86

Region: North Western

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name:

Social Security Appeal Tribunal: Warrington

Case No: 4/07

1. My decision is that the decision of the social security appeal tribunal dated 25 February 1986 is erroneous in point of law. Accordingly I set it aside and direct that the matter be reheard by a differently constituted tribunal.
2. The claimant appeals to the Commissioner, with leave of the chairman of the tribunal, against the unanimous decision of the Warrington social security appeal tribunal, dated 25 February 1986, upholding the decision of the adjudication officer, issued on 14 October 1985, refusing a single payment for curtains for doors and toilet windows and an increase in the sum allowed for the purchase of wardrobes and chests of drawers. The claimant is appealing only against the refusal of a single payment for curtains.
3. The background to this matter is not in dispute and is dealt with in my decision on the claimant's appeal on file number CSB/1061/1986. So far as the present appeal is concerned, suffice it to say that the claimant, who is aged about 35 has the care of three children, aged about 13, 8 and 4, and is separated from her husband, whom she left in April 1984 and of whom she was in such fear that she moved from Glasgow to Runcorn in May 1985. In Runcorn, after a period in a women's refuge, the claimant was granted the tenancy of local authority accommodation and she then applied for single payments for various items of furniture and household effects, including the curtains which are the subject of this appeal.
4. Regulation 3 of the Supplementary Benefit (Single Payments) Regulations 1981 provides that a "single payment shall be made only where ... there is a need for the item in question", and regulations 9 and 10 set out the particular items of "essential furniture and household equipment" in respect of which single payments may be allowed, and the conditions which have to be satisfied for such payments to be made. It is common ground that the claimant fulfils the requirement of regulation 10 in that she had recently become a tenant, that she had no immediate prospect of employment, had been in receipt of benefit for a preceding period of at least 6 months and did not already possess or have a suitable alternative item. Regulation 9(g) provides for a single payment to be made for "curtaining and fittings", so that the claimant's prima facie eligibility is not in doubt.
5. The tribunal's chairman's note of the evidence of the claimant and the submissions of her representative is not very coherent. For example, her representative is recorded as referring to the "bathroom window" being "clear plain glass", immediately followed by the claimant saying "... it is downstairs". I assume from that that "bathroom" was being used as a euphemism for lavatory or "toilet", a word which does not appear until later in the claimant's evidence. It may not be of great importance in this case, but it is just the sort of

potential confusion which a tribunal should guard against by clarifying any ambiguities in the evidence as it is given. However, as I understand it, the effect of the evidence was that the ground floor toilet had a plain, not frosted, glass window, about 5 feet above ground level, and that the front and rear doors were both half-glazed, that the rear door abutted on to a public pathway and that accordingly curtains were necessary for the claimant's privacy and security, particularly as she had been "living in fear of physical violence from [her] husband at one stage".

6. The tribunal gave as their reasons for disallowing the claimant's appeal regarding the curtains that -

"A door is adequate without a curtain, whether it is made of wood, half glass, or all glass. There is no need for a curtain. The toilet window in question is high and allows privacy to users".

7. In his helpful submission dated 30 October 1986 the adjudication officer now concerned with the case submits that the tribunal have failed "to give significant reasons for their decision", that while they were not obliged to take into account factors which amounted to mere "personal idiosyncrasies" they had a duty to approach the fundamental question of the claimant's need in a subjective way, looking to see what her particular needs were, and that their "bald conclusion" that any door is adequate without a curtain, left the claimant in ignorance of the reason for the tribunal apparently being dissatisfied with her evidence. I agree with those submissions and find that the tribunal's failure constitutes a breach of regulation 19(2)(b) of the Social Security (Adjudication) Regulations 1984.

6. In the circumstances the matter will have to be heard afresh by a differently constituted tribunal, who will bear in mind the requirements of regulation 19 of the Adjudication Regulations, and the necessity for them to consider all the evidence tendered by or on behalf of the claimant, relate that evidence to the requirements of the relevant regulations and give their reasons for the conclusions they reach upon the basis of that evidence.

7. The claimant's appeal is accordingly allowed and my decision is as set out in paragraph 1.

(Signed) M H Johnson
Commissioner

Date: 31 March 1987