

SUPPLEMENTARY BENEFITS ACT 1976**APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A QUESTION OF LAW****DECISION OF THE SOCIAL SECURITY COMMISSIONER**

1. My decision is that the decision of the social security appeal tribunal dated 1 March 1990 is erroneous in law. I set it aside and direct that the case be reheard by a differently constituted tribunal.

2. The claimant appeals against the tribunal's decision confirming the decision of an adjudication officer that the claimant "is not entitled to the long-term scale rate for any period during which he was in receipt of supplementary benefit".

3. The facts of this matter and the relevant statutory provisions are sufficiently set out in the papers and there is no need for me to set them out again here. It is enough for me to say that it has all along been the claimant's case that he was entitled to the long-term, higher, rate of supplementary benefit because he satisfied paragraph (e) of regulation 6 of the Social Security (Conditions of Entitlement) Regulations 1981 either directly or by analogy pursuant to paragraph (u). To succeed he had to satisfy various conditions including the condition in paragraph (e)(iii) that he had "made reasonable efforts to find employment ...". The tribunal appear to have concluded that the claimant satisfied all other conditions but did not satisfy that particular one and his appeal failed for that reason. They found as facts that the claimant "has not made any applications for jobs since he was made redundant but has attended at the Job Centre approximately once every six months" and concluded that that was not sufficient to satisfy the condition in question. However what they appear to have overlooked is the claimant's written evidence that "my visits to 'Job Restart' did not help me in any way to obtain suitable employment". Whether that would have made any difference to the tribunal's conclusion that the claimant had not made reasonable efforts to find employment I do not know but it should have been taken into account even though, as appears to be the case, the claimant omitted to draw attention to it when he gave his evidence. In my view the tribunal's failure to

consider that evidence which is possibly of crucial significance on the question of "reasonable efforts" is an error of law and I accordingly allow this appeal and remit the case for complete rehearing by another tribunal.

(Signed) R A Sanders
Commissioner

Date: 5 May 1992