

CPAC

DGR/SH/13

Commissioner's File: CSB/272/1990

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A

QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. For the reasons set out below, the decision of the social security appeal tribunal given on 26 April 1990 is not erroneous in point of law, and accordingly this appeal fails.

2. This is an appeal by the claimant, brought with the leave of the tribunal chairman, against the decision of the social security appeal tribunal of 26 April 1990.

3. The question for determination by the tribunal was whether the claimant was entitled to a heating addition at the higher rate under paragraph 2(b) of Schedule 4 to the Supplementary Benefit (Requirements) Regulations 1983 because his home was exceptionally difficult to heat adequately. He occupied a self-contained ground floor bedsit consisting of one room and a kitchen. He maintained that it had a high ceiling and windows, that it faced the river, and was not insulated. Moreover, there was no draught-proofing. The adjudication officer accepted that the home was difficult to heat and awarded a heating addition at the lower rate. However, he was not prepared to accept that it was exceptionally difficult to heat.

4. In due course, the claimant appealed to the tribunal, who in the event upheld the adjudication officer. They appear to have accepted all the evidence submitted by the claimant including, in particular, that the flat was in the front, and not the back of the block as had been suggested by the Department, but were nevertheless not prepared to accept that the premises were exceptionally difficult to heat.

5. Whether a flat is exceptionally difficult to heat or merely difficult to heat adequately calls for a value judgment on the part of the adjudicating authority. It is not possible to

explain the dividing line between what is exceptionally difficult and what is merely difficult. In cases of this sort, the tribunal using their experience of the world have merely to exercise their judgment and decide into which category the case falls. There is no absolute scientific principle to be applied. The tribunal simply have to exercise a value judgment, and it is not possible for them to analyse the matter further. On the facts, which were not in dispute, the tribunal were not satisfied that the claimant had made out his case that the premises were exceptionally difficult to heat. I consider that the tribunal were entitled on the evidence to reach the conclusion they did, and accordingly I see no grounds for my interfering with their decision.

6. I therefore dismiss this appeal.

(Signed) D.G.Rice
Commissioner

(Date) 10 February 1992