

CSB 504/1984 Heags  
Reg 3 SPs  
Reg 12 SPs: Where a no. of items, a determination must be made for each one a progression thru reg 3, 12, 30.

RFMH/BC

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SUPPLEMENTARY BENEFIT APPEAL TRIBUNAL  
ON A QUESTION OF LAW

DECISION OF SOCIAL SECURITY COMMISSIONER

Name:

Supplementary Benefit Appeal Tribunal:

Case No: 1/10

1. My decision is that the decision of the supplementary benefit appeal tribunal given on 6 April 1984 is erroneous in point of law and is set aside. I direct that the matter be reheard by a differently constituted tribunal.
2. On 21 May 1984 I gave leave to the claimant to appeal on a point of law against the unanimous decision of the tribunal of 6 April 1984. I now have to consider the appeal itself.
3. On 21 February 1984 the claimant, then aged 19, claimed a single payment for single bedsheets, blankets, pillows and pillow cases. At that date he was in receipt of supplementary allowance and had no savings. He was living with his wife and their baby aged 9 months.
4. On 29 February 1984 he was visited at his home and it was ascertained that he had 2 bedrooms, one large and one small. The claimant stated that his wife was sleeping in the small bedroom on a double bed and that the baby was sleeping in the same room in a cot. He stated this was necessary because the baby suffered from bronchitis and his wife had to attend to the baby several times during the night. As a result the claimant contended that it was necessary for him to sleep in the large bedroom on a single bed in order to be able to have an undisturbed night's sleep. He stated he had sufficient bedding for the double bed but required the items in issue for the single bed. He stated that it was not possible to move a double bed and the cot into the larger bedroom because it was very damp and not suitable for the baby. The claimant was currently in receipt of the higher rate of heating addition because of the dampness in his property.
5. In the light of the evidence the benefit (now adjudication) officer decided that the claimant was not entitled to a single payment for the items claimed because he did not satisfy the conditions of regulation 3 of the Single Payments Regulations. The claimant appealed against that decision to the tribunal. In his grounds of appeal he contended that he suffered from migraine headaches which made it necessary for him to sleep on his own.
6. On 6 April 1984 the tribunal unanimously dismissed the appeal and the findings of the tribunal read as follows:-

"(1) There is adequate bedding for the double bed.

(2) [The claimant and his wife] can both use the double bed."

The reasons given by the tribunal were as follows:-

"There is no need for bedding for the single bed at the present time and a payment cannot be awarded having regard to the provisions of Regulation 3(2)(a) of the Single Payments Regulations."

7. The Chairman's note of evidence, to which I am entitled to look, records that the claimant stated the following:-

"(1) ... originally from July 1983 to December 1983 he and his wife slept in the double bed in the big bedroom and the baby was there in a cot.

(2) In December 1983 because of the excessive damp in the large bedroom, they moved the baby to the small room and put the double bed there.

(3) He continued to sleep in a single bed in the large room for which he only had the baby's pillow, one blanket and a nylon bedspread.

(4) He confirmed they had adequate bedding for the double bed and his migraine disability in no way prevented him from sleeping with his wife in the double bed.

(5) There was hardly any room in the small bedroom with the double bed in it - leaving a gap of hardly 6".

8. Rule 7(2) of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980 (now regulation 19(2)(b) of the Social Security (Adjudication) Regulations 1984) provides that every tribunal shall record a statement of the reasons for their determination and of their findings on material questions of fact. It is, of course, a fundamental principle that if the tribunal gives inadequate reasons for its decision, that is an error of law whether or not the actual decision is correct. In my judgment, the tribunal in this case did not comply with the statutory requirements and I set aside the decision. I should put on record at this stage that the adjudication officer now concerned supports the appeal in so far as it is an appeal on the ground that the tribunal has not given adequate reasons for their decision. Parties are left in the dark as to why the tribunal considered that the claimant and his wife could both use the double bed in view of the claimant's reasons and contentions to the contrary. The Chairman's note of evidence is merely a record of the evidence submitted and does not constitute findings of fact.

9. Regulation 3(2)(a) of the Supplementary Benefit (Single Payments) Regulations 1981, as amended, provides that a single payment shall be made only where there is a need for the item in question. Although it is the practice to refer to the claimant as having made a claim to a single payment notwithstanding that it covers a variety of different items, strictly the position is that he has made a separate claim in respect of each item. Accordingly, there are in effect a series of claims for determination, not a single composite claim covering a

variety of different items. Consequently the tribunal had to consider the claim to a single payment in respect of each of the items in issue. The new tribunal should consider all the evidence submitted by the claimant and the written observations of the adjudication officer and record clear findings of fact as to whether or not it was necessary for the claimant to sleep alone on the single bed, and if it was, whether the criteria of "need" was satisfied in respect of the items at issue. Subject to these pre-requisites being satisfied the tribunal should then proceed to consider the application of regulation 12, and 30 in the alternative, to the facts found.

10. For the reasons stated I give the decision set out in paragraph 1. The claimant's appeal is allowed.

Signed R F M Heggs  
Commissioner

Date: 7 September 1984

Commissioner's File: CSB/504/1984  
C SBO File: 620/84  
Region: Wales and South West