

CSB / 529 / 1981

This ruling is starred because it deals in relation to supplementary benefit which is already well known in relation to social security benefit, viz no appeal from a refusal by a chairman of an extension of time for appealing.

May 1982

J G Monroe

JGM/GJH

*Too late for appeal*

SUPPLEMENTARY BENEFITS ACT 1976

*Now able to appeal to a Comm.*

APPLICATION FOR LEAVE TO APPEAL AGAINST THE REFUSAL BY THE CHAIRMAN OF THE SUPPLEMENTARY BENEFIT APPEAL TRIBUNAL TO ACCEPT AN APPEAL OUT OF TIME

RULING OF THE SOCIAL SECURITY COMMISSIONER

1. This application is refused.
2. The claimant made a claim for a supplementary allowance on 13 May 1981, but the application was refused in substance on the ground that the claimant's resources exceeded her requirements as computed for the purposes of the Supplementary Benefits Act 1976. The benefit officer's decision refusing the supplementary allowance was issued on 2 June 1981 and the claimant gave notice of appeal against this to the Supplementary Benefit Appeal Tribunal (the tribunal) on 5 August 1981.
3. Under regulation 4 of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980 [SI 1980 No 1605] (the Appeals Rules) an appeal against a determination by a benefit officer is to be brought by giving notice of an appeal in writing at an office of the Department of Health and Social Security, for transmission to the tribunal, within 28 days beginning with the date on which notice of that determination is given or within such further time as the chairman of the tribunal may for good cause allow. The present appeal was lodged outside the period of 28 days and the chairman of the tribunal has indicated that the appeal is not admitted. The claimant has now given notice of appeal to the Commissioner.
4. As there is no decision of the tribunal on the matter I can only interpret this as being either an application for leave to appeal to the Commissioner against the decision of the benefit officer, or as an application for leave to appeal against the refusal by the chairman of the tribunal to accept the appeal out of time.
5. The only right to appeal to the Commissioner against decisions relating to supplementary benefit is that conferred by section 15A of the Supplementary Benefits Act 1976 as amended and by rules made under that section. Subsection (1) of that section empowers the Secretary of State for Social Services by rules to make provision for any party to proceedings before a Supplementary Benefit Appeal Tribunal to appeal to a Commissioner against a decision of the tribunal. Relevant rules are to be found in Part III of the Appeals Rules. Rule 8 (which is in part III) provides that subject as therein provided any person who is a

party to proceedings before such a tribunal may appeal to a Commissioner with the leave of a Commissioner against any decision of the tribunal given in those proceedings on the ground that the decision is erroneous in point of law. There exists no other right of appeal to a Commissioner in supplementary benefit matters. It is clear thus that there is no right of appeal to a Commissioner direct from the decision of a benefit officer. Equally it is clear that, even if it can be said that the chairman's refusal to accept the appeal out of time was a decision, it was not a decision of the tribunal and no appeal lies to a Commissioner against it. An analogous situation prevails in relation to industrial injuries appeals (see Decision R(I) 44/59 and R(I) 6/73) and I apprehend in relation to social security appeals generally.

(Signed) J G Monroe  
Commissioner

Date: 8 June 1982

Commissioner's File: CSB/529/1981  
C SBO File: SBO 662/81