

Claim for miscellaneous furniture grant under
reg 10A. Can "normally occupy" a home ~~even~~ if
stay there on regular basis ^{even if occupy several such homes} if these homes are
overcrowded can qualify thro' route of reg 13(1)(b).

JBM/FR/23

Commissioner's File: CSSB/271/1987

Region: Scotland

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Kenneth McFie

Social Security Appeal Tribunal: Dundee

Case No: 03/15/12

1. My decision is that the decision of the Dundee social security appeal tribunal dated 13 February 1987 is erroneous in point of law. I set it aside and give the decision that they themselves should have given namely that the claimant is entitled to a single payment for miscellaneous furniture and household equipment because he satisfies the criteria as stated in regulation 10(A) of the Supplementary Benefit (Single Payments) Regulations 1981.
2. This is an appeal by the claimant to the Commissioner with the leave of the tribunal chairman against the unanimous decision of the appeal tribunal confirming the decision of the adjudication officer issued on 18 November 1986 and set out in box 1 of Form AT2.
3. The facts and history of the case are dealt with in paragraphs 1, 3, 4 and 5 of the submission dated 11 August 1987 of the adjudication officer now concerned on which the claimant has had the opportunity to comment. No useful purpose would be served by my setting out these matters afresh here.
4. The relevant statutory provisions are referred to in paragraph 2 and the provisions of the relevant sub-paragraph of regulation 13(1) are set out in paragraph 6 both of the submission dated 11 August 1987 of the adjudication officer now concerned. Nothing is to be gained by my setting out either those references or provisions afresh here.
5. In my judgment the decision of the appeal tribunal is erroneous in point of law in that their conclusion is not one that, based on the facts, they were able to reach. It was argued by the claimant's representative before the appeal tribunal that as the claimant had been staying at several different homes prior to the claim and as all were overcrowded, the existing homes were unsuitable in the terms of regulation 13(1)(b). This was an argument not accepted by the tribunal who on the face of their record state that the claimant did not "normally occupy" any home as he was an occasional visitor. Because of the claimant's lifestyle the tribunal had evidence of 3 homes in which the claimant stayed on a regular basis. It was open to the tribunal to consider each home in turn on the basis of regulation 13(1)(b) as all 3 homes could be said to have been normally occupied. I accept the claimant's appeal and the grounds given therefor. Under the circumstances of my decision I do not need to pursue the aspect of recourse to regulation 30 of the Single Payments Regulations.

6. In accordance with my jurisdiction my decision is as set out in paragraph 1 of this decision. As sufficient facts have been found I find it expedient to give the decision that the appeal tribunal themselves should have given which I so do.

7. Accordingly the claimant's appeal is allowed.

(Signed) J.B. Morcom

Commissioner

Date: 15 June 1988

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JBM/FR/23

Commissioner's File: CSSB/271/1987

Region: Scotland

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