

5/2/89
INCOME SUPPORT SHOULD INCLUDE ELIGIBLE HOUSING COSTS.

RAS/17/LM

Commissioner's File: 1003/1988

Region: London South

SOCIAL SECURITY ACT 1986

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 7 June 1988 is erroneous in law and I set it aside. The calculation of income support to which the claimant is entitled must be reconsidered by the adjudication officer having regard to what is said below. The case can come back to me on the application of either party if any problem arises in giving effect to this decision.

2. By a decision issued on 11 January 1988 an adjudication officer decided that the claimant was entitled to income support amounting to £10.48 which included what is called a transitional addition of 36p per week. The total was subsequently increased on review by 2p per week. The calculation correctly took account of the claimant's retirement pension of £34.49 per week. The claimant said he could not live on such an amount and appealed to the tribunal. They confirmed the adjudication officer's decision - though they referred to an amount of £10.58 per week - but made no attempt to give any reasons for doing so. The claimant now appeals to the Commissioner against their decision. Once again he is asking for help with his bills which he says he cannot pay. But the fact that he is in debt does not assist his appeal. The only question is whether his income support has been correctly calculated. And on that matter it now appears that it was not. That is because the calculation did not include the amount of the service charge payable by the claimant under the terms of his long lease - that amount has varied during the period in question. The service charge falls to be taken into account as an eligible housing cost pursuant to regulation 17 of and paragraph 1(f) of Schedule 3 to the Income Support (General) Regulations 1987. The ground rent of £30.00 per year is also an eligible housing cost - see paragraph 1(c) of the Schedule - but it appears that this has already been brought into account.

3. The tribunal's decision is erroneous in law in that they gave no reasons and did not deal with the service charge. The adjudication officer must recalculate the amount due by way of income support and transitional addition taking account of the service charge, and no doubt consideration will also be given to whether there may be arrears of supplementary benefit in relation to the service charge. I am afraid that the various other bills and expenses referred to by the claimant do not assist him with his contention that he is entitled to more by way of income support than he was awarded.

(Signed) R A Sanders
Commissioner

Date: 11 August 1989