

CPM/L

JBM/SH/13

Commissioner's File: CIS/232/1990

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 Liverpool social security appeal tribunal dated 8 December 1989 is not erroneous in point of law.

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 first involved in these appeals.

3. The facts of the case are dealt with in the findings of the appeal tribunal on the face of their record. In respect of those matters and of the submission dated 22 May 1990 of the adjudication officer now involved in these appeals the claimant has had the opportunity to comment and I have the observations to me dated 14 June 1990. No useful purpose would be served by my setting out these matters afresh here.

4. The relevant statutory provisions are paragraphs 11 and 12 of Schedule 2 to the Income Support (General) Regulations 1987 as amended and regulation 25 of the Social Security (Adjudication) Regulations 1986 also as amended.

5. In my judgment the decision of the appeal tribunal is not erroneous in point of law. In their findings of fact the appeal tribunal state:-

" 1. The claimant was blind in one eye.

2. The claimant was not registered blind."

In giving their reasons for decision from the face of their record the appeal tribunal state:-

"To qualify for a disability premium the claimant has to show that he satisfies paras 11 and 12 of Schedule 2 of the Income Support (General) Regulations 1987. Unfortunately the claimant cannot bring himself into any of the categories mentioned in para 12, because he is not in receipt of any of the benefits referred to, he is not registered blind and he is capable of limited work. His appeal must therefore fail."

On the face of their record and in the light of the findings of fact as set out above in my judgment the appeal tribunal could have come to no other conclusion. In my judgment they have properly dealt with the relevant income support legislation and there is no breach of regulation 25(2)(b) of the Social Security (Adjudication) Regulations 1986.

In his grounds of appeal to me dated 7 April 1990 the claimant submits that the decision of the appeal tribunal fails to take account of:-

"The fact that I have been found 45% disabled .."

This is on the face of the appeal tribunal record incorrect as shown immediately above in this paragraph of my decision. Paragraph 12(1)(b) of the Income Support (General) Regulations 1987 necessitates that the claimant be incapable of work and accordingly the claimant is not assisted by that legislative provision.

6. In accordance with my jurisdiction my decision is as set out in paragraph 1 of this decision.

7. Accordingly the claimant's appeal is dismissed.

(Signed) J.B. Morcom
Commissioner

(Date) 8 May 1992