
78 year old man feared that a claim for retirement pension would lead to disclosure of his true age and jeopardise his job.
Claim disallowed

1. My decision is that from 5th July, 1948 to 26th August, 1949 inclusive the claimant was disqualified for receiving a retirement pension. His pension was, therefore, correctly awarded to him from 2nd September, 1949 inclusive.

2. The claimant attained the age of 65 on 15th August, 1936, and would have been entitled to a contributory old age pension under the former Contributory Pensions Acts on 18th June, 1939 on completion of five years' insurance, if he had claimed it. Having attained the age of 70 before 5th July, 1948, he would have been entitled to a retirement pension under the National Insurance Act, 1946 from that day. But he did not claim a pension until 26th November, 1949. He did not do so, first, because he had given an incorrect age when taking up employment in 1939, and felt certain that if he revealed his true age he would lose his employment and did not wish to do that, and secondly, because he did not know that he need claim till he had retired.

3. I cannot agree that the second reason, which he did not allege until after the hearing before the Local Tribunal, amounts to good cause for failure to claim a pension. If he did not know his rights he might have inquired of the local National Insurance Office. Further, in view of the first reason given, it is irrelevant that he did not know his rights, because he did not intend to claim a pension if he could.

4. As to the first reason, I do not think that can be regarded as good cause for failure to claim a pension. If he preferred his employment to claiming a pension, he cannot now expect to receive a pension in respect of a period for which he refrained from claiming it to keep his employment. The delay was entirely within his control. He chose not to claim. The National Insurance Act, 1946 Section 20(4), to which the Local Tribunal refers, contemplates that, in cases to which it applies, a pensioner shall receive a higher rate of pension when he claims it, but it cannot be used also as an argument in favour of paying a claimant a pension in respect of a period before he claimed it on the ground that he had good cause for failure to claim.

5. Such facts cannot, I think, constitute good cause for failure to claim a pension before he did.

6. The claimant has also claimed in his appeal that the rate of retirement pension paid to him should have been increased beyond 26s. a week by reason of the provisions of the National Insurance Act, 1946 Section 20(4). But the claimant is "an existing old age pensioner" within the meaning of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948 [S.I. 1948 No. 55], and became entitled to a retirement pension by virtue of those regulations, and accordingly, by reason of Regulation 9(3) it is payable to him at the rate of the pension to which he would (had he claimed it) have been entitled under the Contributory Pensions Acts previously in force and the National Insurance (Increase of the Contributory Pensions) Regulations, 1946 [S.I. 1946 No. 1508], that is to say, at the rate of 26s. a week.

7. I must allow the Insurance Officer's appeal.
