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Pension order book mislaid by the person appointed to act for the claimant who was in a mental hospital.

*Held* that claimant's right to benefit was extinguished

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1. My decision is that the claimant's right to the sum of £2 10s. 0d. representing the total sum payable on 10 widow's pension orders due for payment between 1st February, 1949 and 5th April, 1949 is extinguished

2. The claimant, who has been drawing a widow's pension for some 16 years, has been in a mental hospital for 14 years, and when the new National Insurance Scheme came into operation her sister Mrs. G. was appointed by the Minister on 1st October, 1948 "to exercise on behalf of the [claimant] any right to which [the claimant] may be entitled under the Act and to receive and deal with any sums payable on behalf of [the claimant]": this appointment was made in pursuance of Regulation 17 of the National Insurance (Claims and Payments) Regulations, 1948 [S.I. 1948 No. 1041].

3. Mrs. G. unfortunately mislaid the pension order book about the beginning of February, 1949 and did not find it until early in July. She then presented the orders from 1st February onwards for payment, but the local Insurance Officer decided that under Regulation 12 of the above mentioned regulations her right to payment of all sums receivable more than three months before the date of presentation was extinguished, because she had shown no good cause for her failure to obtain payment within three months.

4. There can be no question that if Mrs. G. had herself been the person entitled to the pension there would have been no good cause for her delay in obtaining payment. The order book, and each individual pension order, contain instructions in bold type to the effect that the orders must be presented for payment within three months of the due date. And, as for the book being mislaid, the proper and reasonable course was to inform the local office of the Ministry about it without delay.

5. But the real question raised by this appeal (which is brought on the claimant's behalf from the unanimous decision of the Local Tribunal) is whether the claimant should have to suffer for her duly appointed agent having without good cause failed to obtain payment in time. It is contended (and of course it cannot be denied) that the claimant was not at fault, because she had no control over the acts of her agent. The Local Tribunal held "that the same duties are imposed upon the nominated agent to fulfil the terms of the regulations as the recipient of the pension." I agree with that view.

6. It sometimes happens that a claimant temporarily entrusts his national insurance affairs to a relative or friend owing to some emergency, caused for example by illness or domestic or business pre-occupation. In such a case it may be possible to hold that the claimant did all that could reasonably be expected of him in the circumstances and that he ought not to be prejudiced by any mistake made by the relative or friend. But when an agent is appointed by the Minister under Regulation 17 to act on the claimant's behalf, that agent stands in the claimant's shoes for all purposes relating to claiming and obtaining payment of benefit. Anything the agent does in relation to those matters counts in law as if it were done by the

claimant in person. It makes no difference that the claimant has no control over what the agent does, for indeed the agent can only be appointed if the claimant is unable to act for himself, and that usually means that he is also unable to instruct or control his agent.

7 The appeal must therefore be disallowed.

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