
SUPPLEMENTARY BENEFIT

Single payments: meaning of 'parent'

A single payment was refused for the travelling expenses involved in collecting the claimant's daughter from her guardians and later returning her to them. On appeal whilst a dissenting member of the tribunal decided that 'other parent' referred to the child's natural father the majority of the tribunal concluded that the child's guardians had been appointed as parents and that the circumstances of the claimant's visit were in all respects those envisaged by regulation 22(1)(c). They therefore allowed the claim and the adjudication officer appealed to the Social Security Commissioner.

Held that:

1. the word 'parent', being derived from the Latin 'parere', denotes the natural father or mother and there is nothing in the regulation in question to suggest that any unusual meaning be applied in the context in which it is used. This view is supported by the qualification that it be the 'other' parent with whom the child is resident. The term may, however, include an adoptive parent who has been deemed by law to be the natural parent.
2. as the claimant's daughter was not living with her natural father the provisions of regulation 22(1)(c) were not satisfied.

The Commissioner allowed the appeal, set aside the decision of the appeal tribunal and gave his own decision that the claimant was not entitled to a single payment for travelling costs to visit her daughter.

1. For the reasons hereinafter appearing, the decision of the social security appeal tribunal given on 3 May 1985 is erroneous in point of law, and accordingly I set it aside. However, as it is expedient that I give the decision the tribunal should have given, I further decide that the claimant is not entitled to a single payment to cover the cost of travelling expenses.

2. This is an appeal by the adjudication officer, brought with my leave, against the majority decision of the social security appeal tribunal of 3 May 1985. The claimant asked for an oral hearing, a request to which I acceded. At that hearing the claimant, who was present, was represented by Mr. Alan Bull, a welfare rights worker, whilst the adjudication officer was represented by Mrs. G. Huka of the Solicitor's Office of the Department of Health and Social Security.

3. The facts of this case are simple and straightforward. On 11 March 1985 the claimant, who was in receipt of supplementary benefit, claimed a single payment to cover the cost of the railway fares involved in collecting her daughter Cheryl, aged 13, from her guardians and then returning her to them. She sought a single payment in respect of 2 separate occasions. Cheryl was at the relevant time a ward of court pending a court hearing to decide on her custody. Meanwhile interim care and control was vested in the persons with whom Cheryl was then staying. The claimant is separated from Cheryl's father. The adjudication officer refused the claim on the grounds that the claimant was unable to satisfy either regulation 22 or regulation 30 of the Supplementary Benefit (Single Payments) Regulations 1981 [S.I. 1981 No. 1528].

4. In due course, the claimant appealed to the tribunal, who in the event by a majority reversed the decision of the adjudication officer. The majority gave as the reasons for their decision the following:—

“All parties accepted that:—

The claimant's claim came within regulation 22(1)(c) of the Single Payments Regulations apart from the interpretation of the words "other parent". The majority having considered the terms of the High Court order of 24 October 1984 and paragraphs 5 and 6

construed the fact that [The guardians] to whom the claimant was going were appointed by the court to have care and control of Cheryl as being during the time of their appointment the other parent within the terms of regulation 22(1)(c) and that the circumstances of the claimant's visit were in all respects those envisaged by this particular regulation bearing in mind that access to the child was granted by the court."

The dissenting member construed the words "the other parent as being restricted to the parent of the whole blood namely in this case the natural father which neither [guardian] [was] and consequently travelling expenses were not payable."

5. I agree with the dissenting member. Regulation 22(1)(c) reads as follows:—

"22.—(1) A single payment shall be made in respect of travelling expenses within the United Kingdom in the following circumstances:—

(a) ...

(b) ...

(c) the journey is undertaken by a parent in order to visit his child who is with the other parent pending a decision by a court as to the custody of the child;"

The claimant contends that the word "parent" is sufficiently wide to include someone who is "*in loco parentis*", and that [the guardians] fell within this term. Interim care and control of Cheryl had been conferred on them by the Court, and although there was no blood affinity, they should be regarded as a parent within the regulation.

6. On the other hand Mrs. Huka contended that the word "parent" denoted the natural mother or father. She emphasised that the word "other" clearly indicated that the draftsman only contemplated a natural mother and a natural father and not any other party appointed by any judicial process *in loco parentis*.

7. The primary meaning of the word parent is "to produce or beget", being derived from the latin "parere". It denotes the natural mother or the natural father. I am aware that the Shorter Oxford Dictionary goes on to widen the scope of the word, so that in certain contexts it can mean "a person who holds the position of a parent; a protector, guardian etc" and even "a relative; a kinsman or kinswoman". However, in interpreting the word regard has to be had to the context in which it is used. I am satisfied that the primary and indeed the ordinary everyday meaning of the word "parent" is "a natural father or mother" and that there is nothing in the relevant statutory provision to suggest that any unusual meaning should be attributed to the word. Moreover, in the present case the use of the adjective "other" lends support to the view that the draftsman had in mind the natural and normal meaning of the word. In accordance with the principles laid down by Lord Reid in *Brutus v. Cozens* [1973] A.C. at page 861 I give the word "parent" its usual meaning, and as so defined it indicates either the natural mother or natural father (which although it is not material to my decision would, I think, include an adoptive mother or adoptive father an adoptive parent being deemed by law to be the natural parent) and not someone who is merely discharging the duties of a parent.

8. It follows from the meaning to be attributed to the word "parent" that the claimant is unable to satisfy the provisions of regulation 22(1)(c).

Cheryl was not with her father, and accordingly the adjudication officer was right to refuse an award. It follows that the majority of the tribunal erred in point of law and I must set aside their decision. However, I do not think that I need refer the matter back to either the original tribunal or a differently constituted tribunal. As far as regulation 22(1)(c) is concerned, manifestly the claimant could not bring herself within its provisions, and the only other regulation on which she could conceivably rely was regulation 30. However, no evidence was led at the hearing before the tribunal suggesting the possibility that a refusal of an award might result in *serious* risk to the health of the claimant nor did Mr. Bull suggest any such possibility before me.

9. Accordingly, in the circumstances this is a case where I can substitute my own decision. My decision is therefore in the terms set out in paragraph 1.

(Signed) D. G. Rice
Commissioner