

RAS/1/LM

Commissioner's File: CI/346/89

DHSS File: Not Known

SOCIAL SECURITY ACTS 1975 TO 1986

APPEAL FROM DECISION OF MEDICAL APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. My decision is that the decision of the medical appeal tribunal dated 6 February 1989 is erroneous in law. I set it aside and direct that the case be reheard by an entirely differently constituted tribunal.

2. The claimant appeals against the tribunal's decision confirming the decision of a medical board that the claimant was not suffering from any of several prescribed diseases including those known as D1, D3, D8 and D9.

3. The claimant had produced to the tribunal a medical report from Dr G. Edwards, Consultant Physician, in which the opinion was expressed that the claimant was suffering from prescribed disease D9 - bilateral diffuse pleura thickening. However, all the tribunal said about that was that they did not agree with Dr Edwards' view. The Secretary of State's representative supports this appeal and submits that -

"the claimant's solicitors submitted a comprehensive medical report from Dr Gordon Edwards (docs 17-28) in support of the claimant's appeal and the unrepresented claimant relied on that report in his oral evidence to the MAT. The MAT have dismissed that evidence by stating that they do not agree with the conclusions reached by Dr Edwards. It is submitted that in order for the claimant to see why his appeal failed the MAT should have given some indication as to why that evidence failed to satisfy them (see for example R(I)18/61 paragraphs 13 and 14 and R(A)1/72 paragraph 8). Accordingly it is submitted that the MAT's decision does not comply with the requirements of regulation 31(4) of the Social Security (Adjudication) Regulations 1986."

I agree with those submissions. The tribunal's decision is erroneous in law in the respects referred to and I accordingly allow the claimant's appeal.

4. In the course of this appeal the claimant has complained about the way the tribunal dealt with his case. However, having allowed this appeal on other grounds I do not need to go into that particular matter.

(Signed) R A Sanders
Commissioner

Date: 6 September 1990