

SOCIAL SECURITY ACTS 1975 TO 1990
CLAIM FOR MOBILITY ALLOWANCE
DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Inayat Bibi Ansari (Mrs)

Appeal Tribunal: Manchester

Case No: M/608/02/90

1. I disallow this appeal by the claimant. The decision of the medical appeal tribunal dated 19 September 1990 was not erroneous in law.

2. The claimant was born in 1930. On 20 March 1989 she made a claim for mobility allowance. On 23 April 1989 she was medically examined and the examining doctor was of the opinion that she was not unable to walk nor virtually unable to walk and that the exertion required to walk would not constitute a danger to her life or be likely to lead to a serious deterioration in her health. The adjudication officer rejected her claim. The claimant appealed. On 4 April 1990 the medical board decided that she did not satisfy the medical requirements for the allowance. The claimant appealed. On 19 September 1990 the medical appeal tribunal confirmed the decision of the medical board. The claimant appeals with leave of another Commissioner.

3. Section 37A of the Social Security Act 1975 provided that a person was entitled to mobility allowance for any period throughout which "he [she] is suffering from physical disablement such that he [she] is either unable to walk or virtually unable to do so". Regulation 3 of the Mobility Allowance Regulations 1975 set out the circumstances in which a person was to be treated as suffering from physical disablement such that he or she was unable or virtually unable to walk. That regulation provided:-

" 3.(1) A person shall only be treated, for the purposes of section 37A, as suffering from physical disablement such that he is either unable to walk or virtually unable to do so, if his physical condition as a whole is such that, without having regard to the circumstances peculiar to that person as to place of residence or as to place of, or nature of, employment -

- (a) he is unable to walk; or
- (b) his inability to walk out of doors is so limited, as regards the distance over which or the speed at which or the length of time for which or the manner in which he can make progress on foot without severe discomfort that he is virtually unable to walk; or
- (c) the exertion required to walk would constitute a danger to his life or would be likely to lead to a serious deterioration in his health."

4. In their reasons for their decision the medical appeal tribunal stated:-

"We considered the scheduled evidence, listened to Mr Till on behalf of the claimant, heard oral evidence from the claimant's husband and examined the claimant.

The claimant was invited to walk in the corridor outside the tribunal room but when she stood up she began to weep and declined to walk in the corridor. She walked slowly to the examination room.

Examination today confirms the clinical findings of the Board on 4 April 1990. The claimant's physical signs are insufficient to account for her limited walking ability, and we are not satisfied that her physical condition as a whole is such that she can satisfy any provision of regulation 3(1) of the Mobility Allowance Regulations."

5. The function of the medical appeal tribunal, as that of the medical board, is "to use their own expertise to reach their own expert conclusions upon the matters of medical fact and opinion involved in the 'case' of the claimant": R v. The Medical Appeal Tribunal (North Midland Region) ex parte Hubble [1958] 3 WLR 24 at page 32. In the present case, the medical appeal tribunal have found that the claimant's "physical signs" were insufficient to account for her "limited walking ability" and they were not satisfied that her "physical condition as a whole" was such that she could satisfy any provision of regulation 3(1) of the Mobility Allowance Regulations. In other words, they found that the claimant's limited walking ability was not due, in their opinion, to the claimant's physical condition. That was a matter for the medical appeal tribunal, as an expert body, to decide as a matter of medical opinion. I can find no error of law in their decision.

6. For those reasons, I must disallow this appeal. The claimant may wish to consider whether she would be entitled to make a claim for the mobility component of the new disability living allowance under section 37ZC(1)(a) of the Disability Living Allowance and Disability Working Allowance Act 1991 and regulation 12 of the Social Security (Disability Living

Allowance) Regulations 1991. Whether or not the claimant has grounds for making any such claim, I cannot, of course, say.

(Signed) A.T. Hoolahan
Commissioner

(Date) 25 April 1992