

JGM/8/LS

Commissioner's File: CSB/627/1987

Region: North Western

**SUPPLEMENTARY BENEFITS ACT 1976**

**APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A QUESTION OF LAW**

**DECISION OF THE SOCIAL SECURITY COMMISSIONER**

Name: J. B. (Mrs)

Social Security Appeal Tribunal: Manchester

Case No: 301/03

**[ORAL HEARING]**

1. My decision is that the decision of the social security appeal tribunal dated 7 May 1987 was erroneous in point of law and it is set aside. The matter must be referred to another tribunal to consider the claim under regulation 30 of the Supplementary Benefit (Single Payments) Regulations 1981 (the Single Payments Regulations).
2. The claimant on 19 September 1986 (i.e. after the amendments to the Single Payments Regulations brought about by the Supplementary Benefit (Miscellaneous Amendments) Regulations 1986 (the 1986 amendments)) made a claim for a single payment for floor covering, curtains and garden tools. The claim was rejected by the adjudication officer on the ground that the claimant did not satisfy the condition for an award under regulation 10A of the Single Payments Regulations, (the only provision he considered relevant) in particular that she did not satisfy the condition in regulation 10A(2)(d)(ii) that neither she nor her partner was the tenant of furnished or partly furnished accommodation at her previous home or the owner of the previous home. In fact she had been joint owner of the previous home with her former partner (i.e. her husband from whom she had separated). He considered that the 1986 amendments had had the effect of excluding the claims from regulation 30 of the Single Payments Regulations. The adjudication officer's decision was confirmed on appeal by the appeal tribunal and the claimant now appeals to the Commissioner. She was represented at the oral hearing before me by Mr D. Wayman welfare rights officer with the Oldham Metropolitan Borough and the adjudication officer was represented by Mr E. O. F. Stocker.
3. Between the time of the tribunal hearing and the hearing of the appeal a Tribunal of Commissioners had in the case on file CSB/241/1987 given a majority decision that has thrown considerable new light on regulation 10A. In the result the debate at the hearing before me hardly touched on the question whether the claimant as joint owner was "the owner" of the previous home in terms of regulation 10A(2)(d)(ii). Enough was said to enable me to understand that Mr Wayman relied for his submission that she was not "the owner" on the decision on file CSB/1025/1982 while Mr Stocker relied for the contrary submission on the decision of the House of Lords in Tilling v Whiteman [1980] AC 1 and cases there referred to. But the argument was not developed on either side because it had emerged from the Tribunal of Commissioners' decision CSB/241/1987 that regulation 10A was concerned with a new kind of claim for "miscellaneous furniture and household equipment needs", which was to be distinguished from claims for particular items of miscellaneous furniture and household equipment. The former were but the latter were not excluded from regulation 30.

4. It is a matter of construction of a claim for multiple items whether it is or is not in reality a claim for "miscellaneous furniture and household equipment needs" only this latter kind of claim is covered by regulation 10A, while the former, if they can not be brought within any other regulation in the Single Payments Regulations could be brought under regulation 30. In my judgment the claim in the present case was in reality three separate claims for floor covering, curtains, and garden tools and it was not a claim in respect of miscellaneous furniture and household equipment needs dressed up as claims for miscellaneous items, and regulation 10A was irrelevant to it, and (no other regulation applying to them or any of them) the separate claims should have been considered under regulation 30. The tribunal erred in not so considering them. I could not on the evidence before me make an award of single payments for any of these items under regulation 30 and I remit the matter for decision to another tribunal.

5. The claimant's appeal is allowed.

(Signed) J G Monroe  
Commissioner

Date: 23 March 1988