

CSB 693/1982

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SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SUPPLEMENTARY BENEFIT
APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF SOCIAL SECURITY COMMISSIONER

Robert Portal
Advice Centre in Her Blue,
190 Southwark Park Rd
SE16 3RP

Name: Robert Carson

Supplementary Benefit Appeal Tribunal: South West London

Case No: 10/230

ORAL HEARING

Furniture grant
Single Payment
-(inadeq reason)

1. For the reasons set out below I set aside the decision of the tribunal given on 25 March 1982, and direct that the matter be reheard by a differently constituted tribunal.

2. This is an appeal (brought by my leave) against the decision of the supplementary benefit appeal tribunal of 25 March 1982. The majority decided that the claimant was entitled to a single payment "for a cooker and connection", but for nothing else, whilst the dissenting member took the view that there was suitable furnished accommodation available to the claimant and accordingly that he was not entitled to any form of single payment. The claimant asked for an oral hearing of the appeal, a request to which I acceded. At that hearing he was represented by Mr R Portal, and the benefit officer by Mr D James of the Solicitor's Office of the Department of Health and Social Security.

3. The facts of this case are not easily discerned. On 7 December 1981 the claimant made a claim for a single payment. The difficulty is to determine exactly what it was that this claim related to. The document which he completed on that date purports to constitute a request for the following items:

"Curtains (see windows)

bed

blankets, sheets

towels

cutlery

plates

pots, pans

cooker

also needs £30 for LEB connection".

The benefit officer refused the claim, because in his view there was suitable alternative furnished accommodation available in the area, so that the claimant was unable to satisfy regulation 10 of the Supplementary Benefit (Single Payments) Regulations 1982. As a result of that decision the benefit officer was not required to consider in detail the exact items for which the claimant was claiming a single payment, in that, whatever they were, the claimant simply was not entitled. However, it should be mentioned that the benefit officer appears to have visited the claimant on 25 January 1982, i.e. after he made his decision on 29 December 1981 disallowing the claim to a single payment, and as a result of that visit he awarded a single payment under regulation 12 of the regulations towards the cost of sheets and blankets.

4. On 4 January 1982 the claimant appealed to the supplementary benefit appeal tribunal against "a refusal of a single payment for curtains, bed, blankets and sheets, towels, cutlery, plates, pots and pans, cooker and £30 for LEB connection". As he had received an award in respect of sheets and blankets, clearly the local tribunal were not required to consider this aspect of the case. Mr Portal argued that the appeal embraced items over and above those enumerated above, in that the claimant was seeking furniture for his empty flat. Whether or not the claimant did in fact seek a single payment in respect of furniture (i.e. over and above a bed) is not entirely clear. Certainly there is no mention of this in the claim form dated 7 December 1981, and although the word "furniture" occurs in form LT205, the fact still remains that the terms of the actual appeal make no reference to furniture. I am satisfied that, whether or not the claimant did initially make an oral claim for furniture, he had abandoned it by the time he had lodged his appeal to the tribunal.

5. At this point it is perhaps convenient to mention that although it is the practice to refer to a claimant as having made a claim to a single payment notwithstanding that it covers a variety of different items, strictly the position is that he has made a separate claim in respect of each item. Accordingly, there are in effect a series of claims for determination, not a single composite claim covering a variety of different items. A consequence of this is that, when appealing, the claimant can abandon one or other of his initial claims, without also abandoning the remainder. Moreover, if he has been successful in respect of one claim, and manifestly he will not wish to appeal in respect of it, such claim will not be put in jeopardy by the claimant's appealing in respect of the other claims. The position would be quite different if there were one composite claim. For this would have to be put in issue if the claimant had cause to challenge the decision in respect of any single item. In the present case, as the claimant had been awarded a single payment towards the purchase of blankets and sheets, then there could be no question of the appeal tribunal overturning that award. The claim for a single payment in respect of those particular items had been finally determined, and was not the subject matter of appeal.

6. The tribunal by a majority decided that there was no suitable furnished accommodation in the area, and that the claimant was

entitled to a payment under regulation 10(1)(a)(iii) of the Single Payment Regulations 1981. However, they went on to decide that the only item for which the claimant had established a need was a "cooker and connection" and they limited their award accordingly. Mr Portal contended that it was not clear from the reasons given by the tribunal for their decision whether they considered the need as at the date of claim, as distinct from as at the date of their decision. A Tribunal of Commissioners has decided that the relevant time when the need has to be shown to exist is the date of claim, and not that of adjudication (See unreported decisions on Commissioner's files C.S.B. 256/82 and C.S.B. 533/82). It is not clear whether or not the tribunal appreciated this point, particularly as they used the present tense in the reasons they gave for their decision. Their precise words on this point were as follows:

"The tribunal considered that the only item for which the claimant has a need is a cooker, and a payment should be made for this".

I agree with Mr Portal's criticism. The claimant is entitled to know why he failed and must not be left in the dark. The tribunal clearly erred in law, and accordingly their decision must be set aside. I direct that the matter be reheard by a differently constituted tribunal.

7. However, before leaving this matter it is appropriate that I should give some directions to the new tribunal. They have to consider a claim to a single payment, in respect of the following items, namely curtains, towels, cutlery, plates, pots and pans, and a bed. They must consider whether the claimant had a need for these items as at the date of claim, and, of course, must go on to consider whether or not the claimant satisfies regulation 10, and if he does not, regulation 30.

8. It is to be noted that the claimant appears to have appealed to the appeal tribunal against refusal of payment of £30 "for LEB connection". On the facts the £30 was a deposit required by the LEB as security for payment of future fuel bills. There is no authority conferred by the statutory provisions for a payment of that nature, and it is unnecessary for the tribunal to have regard to it.

9. I give the decision set out in paragraph 1.

(Signed) D G Rice
Commissioner

Date: 8 April 1983

Commissioner's File: C.S.B./693/1982
C SBO File: 770/82