

CSS 758/1982

RFMH/EA

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF SOCIAL SECURITY COMMISSIONER

*single payment
gas fire - re-installation
after move.*

1. My decision is that the decision of the supplementary benefit appeal tribunal (the appeal tribunal) dated 7 April 1982 was erroneous in point of law and is set aside. In exercise of the power conferred by Rule 10(8)(a)(i) of the Supplementary Benefit and Family Income Supplements (Appeals) 1980 S.I. 1980 No 1605 as amended by Rule 6 of the Supplementary Benefit and Family Income Supplements (Appeals) Amendment Rules 1982 S.I. 1982 No 40 I decide that the claimant is entitled to a single payment for the cost of the installation of his gas fire under regulation 10(5) of the Supplementary Benefit (Single Payments) Regulations 1981 S.I. 1981 No 1528 because he was a person to whom regulation 10(1)(a)(ii) of the Regulations applied.

2. On 27 September 1982 I gave leave to the claimant to appeal against the unanimous decision of the appeal tribunal of 7 April 1982. I now have to consider the appeal itself.

3. The claimant, then aged 30, is a single man living with P L as husband and wife. He was receiving a supplementary allowance for himself, P L and their two young dependent children because he was unemployed and registering at the unemployment benefit office. On 19 February 1982, the claimant claimed a single payment to meet the cost of the re-installation of a gas fire. This was rejected by the benefit officer because the conditions of the Single Payments Regulations were not satisfied.

4. The claimant appealed to the appeal tribunal who unanimously dismissed the appeal; the claimant applied to the Commissioner for leave to appeal on a question of law and I granted this.

5. In his evidence before the appeal tribunal the benefit officer proceeded on the basis that the re-installation of the gas fire was a removal expense and fell to be considered under regulation 13(1) of the Single Payments Regulations. He contended further that the conditions for a single payment were not satisfied in that the previous home was not structurally deficient or insanitary; the previous home was not unsuitable in size or structure or too far

removed from close relatives; the change of house was not a result of the death of a partner or marriage breakdown; the claimant's prospects of employment would not be significantly improved by the move and the housing requirements of the previous home were allowed in full and no additional requirements had recently been applicable to the claimant in respect of storage costs. Furthermore the benefit officer stated that there was no need for a gas fire to be installed in the house as a visiting officer had called at the house on 26 February 1982 and found a coal fire burning in the grate. The claimant and his representative stated that the previous home had been structurally deficient and insanitary and that the move had also been necessitated to be nearer to P L's parents who were in ill health. In the alternative it was contended that regulation 30 of the Single Payments Regulations applied because there was an exceptional need for the gas fire to be re-installed because of the danger of an open fire to small children.

6. The appeal tribunal dealt with the claimant's appeal under the provisions of regulation 3(2)(a) of the Single Payments Regulations and dismissed the appeal on the ground that the need for the re-installation of the gas fire had not been established.

7. In my opinion in proceeding on that basis the appeal tribunal fell into an error of law because they disregarded the provisions of regulations 10(5) and (1) and 9(d) of the Single Payments Regulations which read as follows:-

"10(1) This paragraph shall apply where either -

(a) the claimant has recently become the tenant or owner of an unfurnished or partly furnished home and one or more of the following applies:-

(ii) a member of the assessment unit is ...
aged 15 or less ...

(5) In a case to which paragraph 1 applies, a single payment shall be made to meet the reasonable costs of installation of any item mentioned in regulation 9(c), (d), (h), (i) or (k).

9. In this part of these regulations "essential furniture and household equipment" means the following items:-

(d) space heating appliances, but excluding items which are part of a central heating system within the meaning of paragraph 3 of Schedule 3 to the Requirement Regulations;"

8. Accordingly the reasons for the claimant moving to a new home are not relevant. I am satisfied that the claimant has established the need for the installation of the gas fire. The claimant satisfies the relevant conditions under regulations 9(d) and 10(1)(a)(ii) and 10(5) of the Single Payments Regulations and is accordingly entitled to a single payment for the reasonable cost of the re-installation of his gas fire.

9. The appeal tribunal erred in law on a further ground in that it failed to comply with Rule 7(2)(b) of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980 (S.I. 1980 No 1605) as amended by [S.I. 1982 No 40], (the Appeals Rules) which provide:-

"7(2) The [Supplementary Benefit Appeal] Tribunal shall -

- (a) record every determination in writing; and
- (b) include in every such record a statement of the reasons for their determination and of their findings on material questions of fact; and
- (c)

10. The tribunal in this case did not comply with Rule 7(2)(b). Their finding of fact, "when the visiting officer called on 26.2.82 a coal fire was burning in the grate" is inadequate in that it is silent as to the nature of the evidence before it and does not indicate what evidence was accepted or rejected.

11. The reasons given by the tribunal for its decision are also inadequate. It is not sufficient to say "Regulation 3(2)(a) of the Single Payment Regulation applies as the need has not been established" but without reference to any reasons for their conclusion. Had the tribunal addressed their minds to the matter they might have realised that specific provisions were made for a single payment for the re-installation of a gas fire in the particular circumstances of the case.

12. The claimant's appeal is allowed.

(Signed) R. F. M. Heggs
Commissioner

Date: 27 April 1983

Commissioner's File: C.S.B. 758/1982
C SBO File: 763/82