

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

CSB 803/84

Name: Jennifer Wilde

Supplementary Benefit Appeal Tribunal: Euston

Case No: 13/318

1. I allow the claimant's appeal against the majority decision of the supplementary benefit appeal tribunal dated 21 March 1984 and I set that decision aside as being erroneous in law. I remit the case for rehearing and redetermination to a differently constituted social security appeal tribunal: Supplementary Benefits Act 1976, section 2(1) and the Social Security (Adjudication) Regulations 1984 [SI 1984 No. 451], regulation 27.

2. This is an appeal to the Commissioner by the claimant, a single woman aged 19 years at the relevant time, against the supplementary benefit appeal tribunal's majority decision of 21 March 1984 to the effect that on 3 November 1983 (date of issue of the supplementary benefit officer's decision) the claimant was living with a Mr. Q as husband and wife within the meaning of paragraph 3(1) of Schedule 1 to the Supplementary Benefits Act 1976 (as amended) with the result that her resources had to be aggregated with those of Mr. Q and treated as being his resources for supplementary benefit purposes. As from 21 November 1983 the Supplementary Benefit (Equal Treatment) Regulations 1983 [SI 1983 No. 1004] came into effect and mean that in the case of a couple it may not be only the man who can claim benefit. The new tribunal that rehears this case may need to look into this aspect of the case if it becomes relevant.

3. The claimant's representative and the adjudication officer now concerned (in a written submission dated 3 January 1985) both concur in submitting that the decision of the tribunal was erroneous in law for want of the giving of adequate reasons for decision as required by rule 7(2)(b) of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980 [SI 1980 No. 1605 as amended], now reproduced in regulation 19(2) of the Social Security (Adjudication) Regulations 1984 [SI 1984 No. 451 as amended].

4. The criteria for ascertaining whether a man or woman are living together as husband and wife in supplementary benefit cases were set out in detail in reported Commissioner's Decision R(SB)17/81 at paragraph 7. The parties in the present case rightly submit that the original tribunal in this case, though it clearly took considerable trouble with the case, nevertheless failed to make findings of fact and give reasons for decision in relation to the six criteria set out by the learned Commissioner in R(SB)17/81.

5. As appeal to the Commissioner lies only on a question of law and I have no jurisdiction to deal with questions of fact, I must in the present case therefore remit this case to a differently constituted tribunal for rehearing and redetermination. In so doing they will have to consider the position as from the date of the benefit officer's decision on 3 November 1983 onwards (see above) and they are entitled to take into account evidence as to what was the position at that time and thenceforth. In that connection, a letter from the claimant's representative dated 12 February 1985 states that the claimant was pregnant and due to give birth on 1 March 1985. This may or may not be relevant to the issues involved in this appeal.

Signed: M.J. Goodman
Commissioner

Date: 18 March 1985