

DGR/AG

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF SOCIAL SECURITY COMMISSIONER

Name: Andrew Green *CSB 92/1983*

Supplementary Benefit Appeal Tribunal: Southampton

Case No: 16/117

- Resources - capital
- deprivation*
1. For the reasons hereinafter appearing, the decision of the supplementary benefit appeal tribunal given on 4 May 1983 is erroneous in point of law, and accordingly I set it aside. I direct that the matter be reheard by a differently constituted tribunal.
 2. This is an appeal brought with my leave against the decision of the supplementary benefit appeal tribunal of 4 May 1983.
 3. The claimant appears to have been made redundant from his employment on 21 November 1981. He received redundancy pay of £16,000, and claimed unemployment benefit, title to which was exhausted on 27 November 1982. He claimed supplementary benefit on 2 December 1982. By that time his capital had been reduced to virtually nothing. Nevertheless, the benefit officer disallowed the claim on the basis that, since he had disposed of £3,590 by way of gifts to his family and was unable to account for the disposal of the balance of his redundancy pay (save for the payment of £5,000 to his ex-wife, £700 on a holiday and £400 for clothing), he should be treated as still having such sums available to him.
 4. The claimant appealed to the tribunal who in the event upheld the benefit officer. They made the following findings of fact:

"/The claimant/ attended the hearing with his daughter and neighbours. The bank statements for the relevant period were made available to the tribunal.

"/The claimant/ has no capital at present, on 12 8 82 it stood at 69p in Lloyds Deposit Account.

His unemployment benefit ceased on 27 11 82 and he made a claim for Supplementary Benefit on 2 12 82."

The tribunal gave us the reasons for their decision the following:-

"The tribunal are satisfied that [the claimant] deprived himself of a resource to secure Supplementary Benefit.

The tribunal decided that [the claimant] should be treated as still possessing £3,590 in accordance with Regulation 4 of the Resources Regulations 1981, and that this resource should last him until 30 11 83."

5. Although the tribunal have categorically stated that they were satisfied that the claimant had deprived himself of a resource to secure supplementary benefit, they have given no reasons why they reached that conclusion. It may well be - and the evidence seems to point conclusively in that direction - that the claimant gave way to his family the sum of £3,590, but there is no clear evidence that he did so with the sole intention of thereby securing supplementary benefit. (The same applies to the unaccounted for "balance" of the redundancy payment) Unless there is that intention, then there can be no question of his being treated as still being in possession of the relevant resources. Moreover, it cannot be said that the tribunal were simply adopting the conclusion arrived at by the benefit officer. For, the reasons for the benefit officer's decision, as set out in his submissions to the tribunal, are contradictory. It is there stated as follows:-

"The benefit officer decided that [the claimant] disposed of [the relevant resources] with the intention of claiming supplementary benefit and is satisfied that [the claimant] would have dealt with the resource [E] in the same way had supplementary benefit not been a consideration".

The claimant is entitled not to be left in the dark, and he simply cannot tell from looking at box 4 of form LT235 why the tribunal reached the conclusion they did.

6. Moreover, although the tribunal have gone on to state blandly that the sum of £3,590, of which the claimant is treated as still being in possession, should have lasted him until 30 November 1983, no reasons have been given for this conclusion. At any rate, the question which the tribunal should have asked themselves was not how long might the £3,590 last, but how long would it take before the claimant's capital resources had dropped below the maximum sum which the claimant was allowed to retain without loss of entitlement to supplementary benefit. Once again the claimant has been left in the dark as to exactly what the tribunal were deciding and why. It should also be stated that, in order to reach a proper conclusion, the tribunal would have had to have made appropriate findings of fact. Clearly, then, the tribunal erred in point of law, in that they were in breach of Regulation 7(2)(b) of the Appeals Rules.

7. It should also be said that the tribunal should have gone on to consider the claim under the Supplementary Benefit (Urgent Cases) Regulations 1981 (see paragraph 4 of R(SB) 14/82). In particular, they should have considered Regulation 3 of those regulations, and if the claimant satisfied the terms thereof, they should have gone on to consider whether he fulfilled the conditions of Regulation 18.

Moreover, if he did not satisfy Regulation 18, they should have gone on to consider whether he satisfied the conditions of Regulation 24. The failure of the tribunal to consider the Urgent Cases Regulations is another error in point of law calling for their decision to be set aside.

8. My decision is as set out in paragraph 1.

(Signed) D G Rice
Commissioner

Date: 30 January 1984

Commissioner's File: C.S.B 921/1983
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Region: London South