

SUPPLEMENTARY BENEFITS ACT 1976

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

S.P. -

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Furniture grant

Name: Terence Caswell

Supplementary Benefit Appeal Tribunal: Greater Birmingham

Case No: 44/1913

1. My decision is that the decision of the supplementary benefit appeal tribunal date 21 March 1984 is erroneous in point of law. I set it aside and direct that the matter be reheard by a differently constituted tribunal for determination in accordance with my directions.

2. On 12 December 1983 the claimant claimed a single payment for items of beddings, furniture and household equipment as he had recently obtained the tenancy of unfurnished accommodation. On 12 December 1983 the benefit officer (now adjudication officer) decided that the claimant was not entitled to single payments for the items claimed. Thereupon the claimant appealed to the tribunal.

3. In his written observations on the claimant's appeal the benefit officer submitted that single payments could not properly be made because the claimant did not satisfy the conditions of regulation 3(2) of the Supplementary Benefit (Single Payments) Regulations 1981.

4. The claimant submitted further information in a letter dated 16 February 1984 and this was before the tribunal hearing on 21 March 1984. The claimant attended and gave evidence but in the event the tribunal decided to revise the benefit officer's decision in respect of claims for sheets, pots and pans. These items are not therefore the subject of appeal to the Commissioner. However, the tribunal upheld the benefit officer's decision in respect of the other items claimed. The findings of the tribunal read as follows:

"Claim for single payment made on 12/12/83 - until second part of 1980 claimant lived with common law wife at 72 B...Road - evicted for non-payment of rent - common law wife left him taking with her bed linen and pots and pans - claimant failed to remove other items comprising cooker, three piece suite, bed, carpets, wardrobe, two chairs, within the time stipulated by local authority and left outside the building where they disappeared presumably by unauthorised persons taking them away - only settee and bedbase were left - claimant lived in digs or hostels until recent grant of housing of unfurnished accommodation - now has need of the items requested except for three blankets - did not take any steps to safeguard furniture and other items at 72 B... Road when evicted or to have items stored and failed to take action to comply with deadline for removal given by local authority."

reasons given by the tribunal were as follows:-

"Claimant has need of all the items claimed - he unreasonably disposed of the items at 72 B...Road (except bed linen and pots and pans which did not belong to him) because he failed to take any action to safeguard these when he was evicted by not removing the items within the time limits by the local authority, by failing to make arrangements for their storage and by not taking steps to protect the items when they were removed. The Tribunal distinguished this case from R(SB)26/83 (Second decision)(paragraph 7) because in this case the claimant's inactivity in failing to take any steps was mentioned and deliberate and this led to the items being disposed of in the manner described in Box 2. Single Payments Regs, reg 3(2)(b)(iii)."

The claimant now appeals to the Commissioner on a point of law, leave having been granted by me.

5. Regulation 3(2) of the Single Payments Regulations provides that a single payment shall be made only where there is a need for the item in question. Although it is the practice to refer to the 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. The question has to be determined by reference to the situation as at the date of claim by applying the law then currently in force (R(SB)42/83). The tribunal erred in law because they failed to differentiate between items formerly possessed by the claimant and those which were not.

6. The new tribunal should consider the claimant's evidence as to the circumstances in which he lost possession of some of the items and refer to Decision R(SB)26/83 for guidance on the interpretation of regulation 3(2)(b)(iii). If the tribunal consider that the claimant has satisfied the criterion of "need" in respect of all or any item they should then proceed to consider the relevant regulation in determining whether a single payment should be awarded for that particular item. My decision sets out the law in respect of the individual groups of item.

7. A single payment for items of "bedding" may be awarded under regulations 12 and 30 of the Single Payments Regulations. Items of bedclothes are specified in column 1 of Schedule 1 and the tribunal should consider whether the claimant's claim for "bedding" includes such items as pillow, pillow case and quilt. I appreciate that the claimant already possessed three blankets and he was awarded a single payment for sheets.

8. Regulation 9 of the Single Payments Regulations lists the items included in the term "essential furniture and household equipment". Single payments for such items may be awarded under regulation 10 and 30 of the Single Payments Regulations. In Decision R(SB)26/84 the Commissioner held that the opening condition of regulation 10(1)(b) was "ultra vires". The effect of this is that the words "the claimanthas not recently become a tenant or owner" are to be ignored. The practical effect is that a claimant, who as a recent tenant or owner of unfurnished or partly furnished accommodation is able to satisfy the conditions of regulation 10(1)(a)(iii) will similarly satisfy the conditions of regulation 10(1)(b)(ii) and will so avoid

"there is no suitable alternative furnished accommodation available in the area". The tribunal should consider regulation 10(1)(a)(iii) and 10(1)(b)(ii) and refer to Decision R(SB)8/84 for guidance as to whether this particular regulation can assist the claimant.

9. * The effect of the Decision R(SB)8/84 has no bearing on claims for single payments for "minor items". Regulation 9(1) describes these items "such as cleaning implements, cooking utensils, crockery and cutlery but only in a case to which regulation 10(1)(a) applies". As a result an award in respect of such minor items can only be made in cases where regulation 10(1)(a) is applicable.

10. The claimant's appeal is allowed.

Signed: R F M Heggs
Commissioner

Date: 14 March 1985