

CSB 1104/1983

VGHH/BJE

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF SOCIAL SECURITY COMMISSIONER

Inadequate reason

Name:

- from the

Supplementary Benefit Appeal Tribunal: Birkenhead

Case No: 2/213

1. My decision is that the decision of the supplementary benefit appeal tribunal dated 13 June 1983 is erroneous in point of law in so far as it related to the claim for floor covering. I set it aside and refer the case to another tribunal for determination in accordance with my directions.
2. By a decision issued on 11 February 1983 a supplementary benefit officer decided, amongst other matters, that the claimant was entitled to a single payment of benefit of £131.75 for floor covering for a living room, stairs and 2 bedrooms. This was calculated on the basis of 85 square yards at £1.55 a square yard. The claimant appealed against this decision and in his observations on the appeal the benefit officer submitted that "floor covering of a reasonable quality" could be bought for £1.55 a square yard.
3. Before the tribunal, the claimant's representative submitted estimates showing a higher price than £1.55 per square yard. The presenting officer submitted what are described in the chairman's note of evidence as the "facts before the SBO".
4. The tribunal decided that £1.55 a yard was a realistic price for both lino and cheap carpet. They accordingly awarded no further payment for carpets and floor covering. This decision was, in my judgment, clearly erroneous in point of law for failure to give adequate reasons as to why the claimant's evidence as to cost was rejected. In addition, the tribunal failed to consider, or if it did consider, make findings under regulation 3(3)(b)(i) of the Single Payments Regulations which provides that the amount of the payment shall be such as is necessary to purchase an item of reasonable quality. I agree with the benefit officer now concerned, who has submitted that quality must be considered by reference to the claimant's needs and that a large family requires a more durable product for common floor areas. In the present case, according to the original benefit officer's submission the claimant is a divorced woman with two young children.

5. The case must go back to another tribunal, which should be differently constituted and should make proper findings as to the material facts. In making its findings that tribunal should indicate which evidence it accepts and which evidence it rejects and, in each case, why. It should investigate and make findings as to the basis of any submission by the presenting officer that carpet or other floor covering of reasonable quality can be bought for £1.55 a yard. It is not enough for the tribunal to accept this as a fact simply because a presenting officer, with no personal knowledge, states that a benefit officer has said so in a written statement. The basis of any such suggestion should be properly investigated. Did the benefit officer find the figure of £1.55 by referring to some printed list? If so, what printed list and where can such items be obtained? Did the benefit officer inspect the items in question to check their quality? Is the area where they are on sale one from which it is practicable for the claimant to purchase? The practice, and it is a not uncommon practice, of some tribunals of simply accepting a presenting officer's statement, in preference to evidence submitted by a claimant, without stating why is thoroughly undesirable. For the claimant is left guessing as to why the case went against him and is likely to entertain the suspicion that the tribunal is simply a rubber stamp for the presenting officer. The fresh tribunal should accordingly take particular care in this respect. It should have before it, in addition to the present decision, a copy of the submission dated 5 December 1983 of the benefit officer now concerned, with which I am in agreement and their findings should also cover the points mentioned in that submission.

6. My decision is set out in paragraph 1.

(Signed) V G H Hallett
Commissioner

Date: 6 February 1984

Commissioner's File: C.S.B. 1104/1983
C SBO File: 1167/83
Region: North Western