

SSAT's decision erroneous as failed to give sufficient reasons for rejecting claimant's evidence

RAS/1/LM

Commissioner's File: CSB/1129/89

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Eric M. [unclear]

Social Security Appeal Tribunal: Manchester

Case No: 614:13823

1. My decision is that the decision of the social security appeal tribunal dated 25 May 1989 is erroneous in law. I set it aside and direct that the case be reheard by a differently constituted tribunal.

2. The claimant appeals against the tribunal's decision confirming the decision of an adjudication officer to the effect that supplementary benefit or income support amounting to £1,084.24 had been overpaid to the claimant between 10 January 1986 and 7 July 1988 and was recoverable from him because, in the adjudication officer's view, he had not disclosed the material fact that he was in receipt of industrial injuries disablement benefit.

3. The claimant's case throughout has been that he had verbally disclosed to his local office his receipt of disablement benefit when he had first claimed his supplementary benefit. However, as the adjudication officer who is now concerned with the case points out, it is not clear what the tribunal made of the claimant's evidence to that effect. The submissions of the adjudication officer, who supports this appeal, include the following -

"2. It would not seem to be in dispute that the claimant has been overpaid Supplementary Benefit/Income Support amounting to £1084.24 for the period 10 1 81 to 7 7 88. The only point at issue would seem to be whether that part of the overpayment occasioned by the claimant's receipt of Industrial Injuries Disablement Benefit was or was not due to his failure to disclose his receipt of that benefit.

3. In his original ground of appeal and also at the hearing the claimant contended that on completing his initial claim for supplementary benefit in December 1985 he had orally disclosed his receipt of Industrial Injuries Disablement Benefit. The chairman's note of evidence records the circumstances which the claimant alleges led to his calling at the local office of the Department in

Failsworth and that "He saw a young lady there who helped him fill in the form. He told the young lady about his industrial injuries benefit but she said she already knew about that. He felt therefore that that was taken into account".

4. The tribunal's response to this evidence was to first indicate the difficulty in deciding what they did or did not accept had occurred and then to effectively find as fact ".... that the claimant had not disclosed all the information orally in December 1985 in any way understandable to the clerk at the office". It would seem from this finding that the tribunal accepted the claimant had called at the local office in December 1985 but it is not apparent what the tribunal concluded had then occurred or why they phrased their finding in such a way.

5. In my submission the decision of the tribunal is erroneous in law in that the tribunal have failed to identify with reasonable particularity the grounds on which they rejected the claimant's evidence as to what occurred (cf paragraph 15 of R(SB) 33/85). ... "

I agree with those submissions. The tribunal's decision is erroneous in law in the respects referred to and I accordingly allow the claimant's appeal.

(Signed) R A Sanders
Commissioner

Date: 16 July 1990