

CSB11621983

VGHH/AJ

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF SOCIAL SECURITY COMMISSIONER

Name: William Albert Thompson

Supplementary Benefit Appeal Tribunal: Scunthorpe

Case No: 9/7

1. My decision is that the decision of the supplementary benefit appeal tribunal ("SBAT") dated 26 July 1983 is erroneous in point of law. I set it aside and refer the case to another SBAT for determination in accordance with my directions.
2. The claimant was made redundant by the British Steel Corporation effective from 22 May 1982, decided to establish himself in business as a grocer, did so, but later ceased to trade. He claimed supplementary allowance from 4 May 1983 and the question at issue is the treatment of payments received by the claimant under the provisions of the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) Regulations 1979 (SI 954/79) as amended. The supplementary benefit officer treated these payments as an income resource and decided that the claimant's resources exceeded his requirements and that the claimant was not entitled to supplementary allowance for the period of 26 weeks (being the period to which he attributed payments under the scheme) commencing the 5th May 1983 and issued a decision to that effect on 13 May 1983.
3. The claimant appealed against that decision to the SBAT which on 26 July 1983 affirmed the benefit officer's decision.
4. The SBAT decision was clearly erroneous in point of law in failing to comply with rule 7(2) of the Appeals Rules for the reason given by the supplementary benefit officer now concerned, in his written submission dated 31 January 1984 on this appeal, namely that they failed to record as a finding of fact whether the payments of scheme benefit were income or capital payments, the date on which those payments became payable and the period to which those payments were attributable and the amount of such payments, assuming they found them to be income, calculated on a weekly basis; and in that

they failed to state in the reasons for their decision why they rejected the claimant's submissions that the payments were capital and that they were not a personal resource but the resource of his business. For the reasons given by the benefit officer now concerned in the submission I agree that the SBAT also applied the wrong statutory provisions.

5. The SBAT decision must be set aside. Since the necessary facts have not been found it is neither expedient nor desirable for me to give the decision that the SBAT should have given. The case must be referred to a fresh SBAT which, in accordance with the usual practice, should be entirely differently constituted. That SBAT should consider, and make findings on, the points raised by the supplementary benefit officer now concerned in his written submission of 31 January 1984, a copy of which should be before them, and on the points raised by the claimant, including those set out in his observations on that submission which are dated 16 February 1984, and all the relevant regulations.

6. My decision is set out in paragraph 1.

(Signed) V G H Hallett
Commissioner

Date: 4 May 1984

Commissioner's File: C.S.B. 1162/1983
G SBO File: 1363/83
Region: North Eastern