

JGM/3/LS

Commissioner's File: CSB/1188/1986

C A O File: AO 1268/SB/86

Region: London North

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

IDENTIFIABLE DECISION
NOT TO BE SENT OUT OF
THE DEPARTMENT

1. My decision is that the decision of the social security appeal tribunal dated 5 August 1986 was erroneous in point of law and it is set aside. The matter must be referred to another tribunal.

2. The claimant is a divorced woman aged 29 who lives with her daughter aged 12. She was at the material time in receipt of a supplementary allowance and she made a claim for a single payment for removal expenses on 27 May 1986 when she was proposing a change of address. She was at the time living opposite to her divorced husband, who had remarried. The claim was rejected substantially on the ground that the claimant did not satisfy any of the conditions in regulation 13(1) of the Supplementary Benefit (Single Payments) Regulations 1981 (the Single Payments Regulations) but the adjudication officer when the claimant appealed gave his reasons for considering that regulation 30 of those regulations did not apply either.

3. The claimant appealed to the appeal tribunal but her claim was rejected. She did not base her appeal on regulation 30, but she contended that she needed to move (a) in order to be nearer to her arthritic mother, (b) in order to get away from the proximity of her former husband. I do not think it can be suggested that the first of these points brings the claimant within any paragraph of regulation 13(1)(a) of the Single Payments Regulations. But the second could arguably bring the claimant within regulation 13(1)(c) which applies where the change of home is in consequence of the death of, or divorce from, the claimant's partner or any other breakdown of the marriage or relationship. This provision is primarily intended to cover moves that take place soon after the death, divorce or breakdown. And as in this case the divorce had taken place eight years previously the tribunal considered it to be too remote and they dismissed the appeal.

4. The adjudication officer now concerned has drawn my attention to the decision of the Commissioner in the case on file CSB/1016/1984. In that case the claimant was making a claim for a single payment which depended on satisfying regulation 13(1)(c) a considerable time after the breakdown of a marriage. The Commissioner held that a tribunal, having failed to consider whether there was any causal link between the breakdown of the marriage and the removal, had erred in law. It is not very clear from the decision what the tribunal did consider. In the present case the tribunal considered nothing but the lapse of time, or so it seems. I think that they should have considered such matters as whether the husband had only recently moved to live opposite, or whether the problem was one which the claimant had been living with for years. If it was of long standing, they should have considered whether there was any feature that made the problem more serious recently (as for instance

the daughter's adolescence or a change in the conduct of the husband). The new tribunal may still conclude that the need for the move was not a consequence of the breakdown. But it would be wrong to base the conclusion on lapse of time alone.

5. The claimant's appeal is allowed.

(Signed) J G Monroe
Commissioner

Date: 23 June 1987 .