

**SUPPLEMENTARY BENEFITS ACT 1976**

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

**DECISION OF THE SOCIAL SECURITY COMMISSIONER**

1. This is a claimant's appeal, brought by leave of the Commissioner, against a decision of the social security appeal tribunal dated 15 December 1988 which confirmed a decision issued by the adjudication officer on 2 June 1988. My decision is that the aforesaid decision of the appeal tribunal is not erroneous in point of law.

2. Supplementary benefit disappeared from the statute book with effect from 11 April 1988. The events with which this appeal is concerned occurred fairly closely on either side of that date. By reason of the precise course which those events took, both the local adjudication officer and the appeal tribunal were constrained to find against the claimant; and I myself am in a like position.

3. At the relevant time the claimant was a single woman aged about 20. She was expecting a baby. That baby - a girl - was, in the event born on 8 May 1988. For some months the claimant lived in the home of her boy-friend's parents. (She was, I think, still living there at the time when the baby was born.) The claimant had sought accommodation of her own. In March 1988 she was offered, and accepted, the tenancy of a flat. (It was, I think, local authority property.) She eventually moved into that flat - without her boy-friend - on 11 May 1988. She had no furniture of her own. On 5 April 1988 - by which time, of course, she knew that she had secured the tenancy - she claimed, pursuant to regulation 10A of the erstwhile Supplementary Benefit (Single Payments) Regulations 1981, a single payment for miscellaneous furniture and household equipment.

4. The combined effect of section 3 of the Supplementary Benefits Act 1976 and regulation 4 of the Single Payments Regulations was that a single payment could not be awarded to a person who was not - at the date of the claim for the single payment - either entitled to a supplementary pension or allowance or would have been so entitled had a claim been made for such.

5. The fly in the ointment - from the claimant's point of view - was the fact that she was at the date of her claim in receipt of unemployment benefit. (She continued in receipt of that benefit until 13 April 1988 - ie until after the abolition of supplementary benefit.) That benefit was paid at the rate of £31.45 a week. The claimant's requirements amounted to £24.35 a week. There could, accordingly, be no entitlement to a supplementary allowance. The claimant's father urged upon the appeal tribunal that the claimant had been so advanced in her pregnancy that she had not really been physically capable of work; and was not, accordingly, entitled to unemployment benefit. As a matter of objective fact, that may well have been true. But it was the claimant's own deliberate decision to continue to claim unemployment benefit; and each time that she drew it she would have signed a declaration to the effect that she was, among other things, capable of work. I myself cannot see how the Department of Employment can in any way be blamed for continuing the payments.

6. The claimant's explanation of her decision to continue to claim unemployment benefit is this:

- (a) On 8 March 1988 she had made a claim (in her own right) for a supplementary allowance.
- (b) That claim was refused on 21 March 1988 upon the ground that the claimant was living with her boy-friend as husband and wife.
- (c) The claimant was left with no source of income other than her unemployment benefit; so she continued to claim it.

7. In respect of the decision referred to in paragraph 6(b) above, it is, again, difficult to apportion any blame. The local adjudication officer was faced with a claimant who was in an advanced stage of pregnancy and living in the same accommodation as the father of the expected baby. Moreover, that accommodation was the home of the parents of the baby's father. Be that as it may, the adjudication officer was persuaded to review and revise her decision. On 10 June 1988 she decided that the claimant had been living as a single non-householder in the household of the parents of the baby's father. That did not, of course, have any retrospective effect upon the claimant's entitlement to a supplementary allowance. Such entitlement was defeated by the fact that the unemployment benefit drawn at the material time exceeded the claimant's requirements.

8. It can be seen that the claimant's continued drawing of unemployment benefit effectively demolished any entitlement to a single payment. There is nothing which I can properly do about that. Any review and revision of the decision pursuant to which unemployment benefit was paid would have had to have been sought by the claimant upon the basis that she had received such benefit because she had knowingly made untrue declarations as to her fitness for work. One does not have to have been a Commissioner

for as long as I have been to appreciate how unpromising that would have been as a ground for the necessary application.

9. The papers suggest that there have been complexities in respect of a claim for maternity allowance. That, of course, is an issue quite outside the scope of this appeal.

10. The claimant's appeal is disallowed.

(Signed) J Mitchell  
Commissioner

Date: 13 January 1992