

6/26/88

Single payments: tribunal finding that claimant could sleep in his clothes perverse: application for bedding allowed.

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RAS/17/LM

Commissioner's File: CSB/1299/1988

Region: North Western

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: David W

Social Security Appeal Tribunal: Rochdale

Case No: 615:01868

1. My decision is that the decision of the social security appeal tribunal dated 12 May 1988 is erroneous in law and I set it aside. As I consider it expedient to do so I make such further findings of fact as are referred to below and I give the decision which the tribunal should have given namely that the claimant is entitled to a payment pursuant to regulation 30 of the Supplementary Benefit (Single Payments) Regulations 1981 and calculated in accordance with Schedule 1C to those Regulations to enable him to purchase one pillow, two pillow cases, three sheets and three blankets.

2. At the time of his claim the claimant was 24 years old and single and he had no bedding at all. Some months later his doctor certified that he suffered from osteomyelitis of the right tibia and he subsequently had an operation in Oldham Royal Infirmary. An adjudication officer decided that he was not entitled to a payment for bedding because he did not, in the adjudication officer's view, satisfy the conditions either of regulation 12 or of regulation 30 of the Single Payments Regulations. The tribunal confirmed that decision.

3. It appears from the reasons they gave for their decision that the tribunal took the view, in relation to regulation 30, that the fact that the claimant possessed no bedding at all did not pose a serious risk to his health because he could sleep in his clothes. The claimant's representative contends that that was so unreasonable as to be perverse. I agree. The tribunal's decision is erroneous in law on that account. While the supplementary benefit scheme was certainly not intended to keep claimants in great style I cannot imagine that it was ever anyone's intention that a claimant should have to sleep in the clothes he wore during the day to cover himself and keep warm. I find that suggestion, implicit in the tribunal's decision, quite remarkable. Does it mean that anyone who possessed some clothes could never get a payment for bedding? In R(SB) 5/81 the Commissioner said that in some circumstances it is self-evident that the lack of the items in question would pose a serious risk to health. The tribunal said that was not so in this case. That in my view is all part and parcel of the perversity of the tribunal's decision. They drew a wrong or perverse conclusion from the facts. I should add that there is nothing in the papers to indicate that the claimant had any other means of avoiding the risk implicit in the fact that he had no bedding at all. He is in my view entitled to succeed under regulation 30; I accordingly allow his appeal and give the decision set out above. I should say that I have used the definition of "a sufficient

stock of bedding" in regulation 12(3) of the Single Payments Regulations as, although that provision does not apply to regulation 30 payments, it seems appropriate to use that definition as a sensible indicator of the claimant's needs in this case.

(Signed) R A Sanders
Commissioner

Date: 12 October 1989