

Commissioner's File: CSB/002/1991

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. My decision is that the decision of the Sheffield social security appeal tribunal dated 11 July 1990 is erroneous in point of law. Accordingly I set it aside and remit the case for rehearing to a differently constituted appeal tribunal.

2. This is an appeal by the claimant to the Commissioner with the leave of the tribunal chairman against the unanimous decision of the appeal tribunal confirming the decision of the adjudication officer first involved in these appeals.

3. The facts of the case are dealt with in box 5 of the written submission of the adjudication officer first involved in these appeals to the appeal tribunal. In respect of those matters and of the submission dated 22 February 1991 of the adjudication officer now involved in these appeals the claimant through his representatives has had the opportunity to comment and I have their observations to me dated 19 March 1991 which are "I have no further comments". No useful purpose would be served by my setting out these matters afresh here.

4. The relevant statutory provisions are section 53 of the Social Security Act 1986 and regulation 25(2)(b) of the Social Security (Adjudication) Regulations 1986.

5. In my judgment the decision of the appeal tribunal is erroneous in point of law. In the light of the helpful submission dated 22 February 1991 and of the observations of the claimant's representatives dated 19 March 1991 I can take the matter quite shortly. The appeal tribunal has erred in two counts first in that they have rejected the claimant's evidence without any adequate reason for doing so and secondly in that they have failed to comply with the requirements dealt with at

paragraph 6 of Decision R(SB) 9/85. In that regard there is no merit in my setting out afresh here what is adequately dealt with in paragraphs 7 and 8 of the submission dated 22 February 1991 which I adopt as part of my judgment.

6. In accordance with my jurisdiction my decision is as set out in paragraph 1 of this decision. I direct that the new tribunal to whom I remit this case in rehearing the case shall pay particular attention to all the aspects to which I have referred to in paragraph 5 above of this decision. Further they shall consider carefully the exact wording of the relevant statutory provisions and make and record their findings on all the material facts and give reasons for their decision. This is a supplementary benefit case - no doubt every effort will be made to secure an early rehearing by the newly constituted appeal tribunal with a view to disposing of all relevant issues at as early a stage as possible.

7. Accordingly the claimant's appeal is allowed.

(Signed) J.B. Morcom
Commissioner

(Date) 6 March 1992