

C.P.A.G.

DGR/SH/14

Commissioner's File: CSB/018/1991

SUPPLEMENTARY BENEFITS ACT 1976
APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A
QUESTION OF LAW
DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. For the reasons set out below, the decision of the social security appeal tribunal given on 9 August 1990 is not erroneous in point of law, and accordingly this appeal fails.

2. This is an appeal by the claimant, brought with the leave of a Commissioner, against the decision of the social security appeal tribunal of 9 August 1990.

3. The question for determination by the tribunal was whether the claimant was entitled to a heating addition at the higher rate on the grounds that her home was exceptionally difficult to heat. It was accepted that the home was difficult to heat; the issue was whether or not it was exceptionally difficult to heat. In the event, the tribunal, upholding the decision of the adjudication officer, decided the matter adversely to the claimant.

4. Although the tribunal found that "there are no grounds on which to review" the award of an additional requirement at the rate of £4.40 per week in respect of heating, clearly they did review; what they did not do was to revise the existing award. Although the language used by the tribunal is somewhat loose, it is perfectly clear what they meant.

5. The tribunal made, inter alia, the following findings:-

"....

(4) The appellant's home is a 4-bedroomed mid-terraced local authority house with solid fuel central heating, loft insulation, draft proofing, radiators in every room except the sitting-room and, being

surrounded by other houses, is not severely exposed.

- (5) The property inspection reports and maps submitted which gave some helpful guidance as to the location of the house all relate to houses other than the appellant's for which no report was submitted.
- (6) After due consideration of all the factors affecting the appellant's home referred to above, the Tribunal were satisfied that there is no evidence that the appellant's home is exceptionally difficult to heat adequately."

6. Manifestly, the tribunal had to make a value judgment as to whether in all the circumstances the claimant's home was exceptionally difficult to heat. Evidence was presented on behalf of the claimant that the property suffered from dampness, draughts and exposure. However, after taking into account all the matters set out in finding (4), the tribunal were not satisfied that the home, notwithstanding the factors complained of, was exceptionally difficult to heat adequately. I see nothing wrong in law with the tribunal's decision. They were, in my judgment, entitled on the evidence to reach the conclusion they did, and they have explained what factors they took into account in arriving at their decision. Using their commonsense and experience of the world, they were simply not satisfied that the claimant had made out her case that her home was exceptionally difficult, as distinct from merely difficult, to heat adequately. I see no grounds for my interfering with their decision.

7. Accordingly I dismiss this appeal.

(Signed) D.G. Rice
Commissioner

(Date) 1 April 1992