

C.P.A.F

MJG/SH/7

Commissioner's File: CSB/019/1990

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. I allow the claimant's appeal against the decision of the social security appeal tribunal dated 7 June 1989 as that decision is erroneous in law and I set it aside. I remit the case for rehearing and redetermination, in accordance with the directions in this decision, to an entirely differently constituted social security appeal tribunal: Social Security Act 1975, section 101 (as amended).

2. This is an appeal to the Commissioner by the claimant, a man aged 40 at the relevant time. At that time he was living with his wife then aged 38 and their two children aged seven and two years respectively. Unfortunately the claimant's wife has since died but this particular appeal must be judged by events as they were at the date of the claim for a single payment (see below) namely 15 March 1988 when the claimant's wife was still alive.

3. The appeal is against the unanimous decision of a social security appeal tribunal dated 7 June 1989, which dismissed the claimant's appeal from a decision of the local adjudication officer issued on 7 April 1988 in the following terms,

"The claimant is not entitled to a single payment for sheets and pillow cases. This is because -

1. He does not satisfy the conditions of Regulation 12(1) of the Single Payments Regulations.

2. In my opinion, there is no serious damage or serious risk to the health or safety of any member of the assessment unit which would be prevented by such a payment."

4. On 15 March 1988 the claimant made a claim for a single payment in order to purchase, amongst other items, two double sheets and two pillow cases, stating that he had not had a bedding grant for about three years and that the family's bedding was now wearing thin. There was evidence before the tribunal that the claimant had a weak heart and that the claimant's wife was suffering from high blood pressure. The tribunal considered the matter under regulations 12 and 30 of the Supplementary Benefit (Single Payment) Regulations 1981.

5. The tribunal made the following findings of fact,

"No medical evidence seen or found by the Tribunal and no finding that the Claimant was, or could be classified as, chronically sick or otherwise disabled. The fact that he was registered disabled did not mean that he was unable to do some form of work and his condition could not be treated as 'chronic'. The claimant does not satisfy regulation 12 of the [Single Payments] Regulations. Under regulation 30 the tribunal find no evidence of a serious risk to health or safety as at the date of claim."

6. The tribunal gave the following reasons for its decision,

"The tribunal, in considering the evidence available, cannot see how the Claimant satisfies Regulation 12 nor how Regulation 30 can be applied. Clearly, the claimant's situation is not satisfactory but in the absence of any hard medical evidence at all the Tribunal cannot make any finding that the Claimant was chronically sick and substantially and permanently disabled. Furthermore, under Regulation 30 there is no evidence that the lack of the bed linen in question constitutes a serious risk to the health or safety of the family."

7. The references to the claimant being chronically sick etc refer to regulation 12(1) of the above cited Single Payments Regulations, which requires that the item should be "required for a member of the assessment unit who is either over pensionable age or chronically sick or mentally or physically disabled." It can be seen that the tribunal's reasons do not allude to the evidence before the tribunal i.e a statement by the claimant that his wife was suffering from high blood pressure, but that seems to have been subsequently borne out by her untimely death from a brain haemorrhage.

8. On that ground and also on other grounds, the claimant's appeal is supported by the adjudication officer now concerned in a written submission dated 16 March 1990 drawing attention to reported Decision R(SB) 33/85 where the Commissioner said (paragraph 14),

"There is no rule in English law that corroboration of the claimant's own evidence is necessary. In some cases a tribunal may rightly think that they cannot act on the claimant's uncorroborated evidence either because it is

self-contradictory or inherently improbable or because the claimant's demeanour does not inspire confidence in his truthfulness ..."

9. I should say that of course a tribunal does need to ask for some tangible evidence of chronic ill-health in cases of this kind and would normally rely on medical evidence. However here the claimant had tendered to the tribunal a letter from his general practitioner, in connection with another claim, protesting at having to give medical opinions on "unnecessarily trivial" matters. The claimant was naturally apprehensive about asking his doctor again for a medical certificate in the present context, though of course this matter was more serious and one on which a doctor could give a useful opinion.

10. The tribunal's ruling on regulation 30 of the Single Payments Regulations (payment only means of averting serious risk to the health of a member of the assessment unit) is also submitted to be erroneous in law by the parties on the footing that the tribunal merely reached what the adjudication officer now concerned calls "bald conclusions" and did not give reasons for their finding. That is true, though I ought to add that often in cases of this kind a tribunal can do no more than say what its opinion is and give a 'value judgment'.

11. Nevertheless, I must accede to the concurring submissions of the claimant's representative and of the adjudication officer now concerned and set the tribunal's decision of 7 June 1989 aside as being erroneous in law. Because here evidence needs to be taken and enquiries made, it is not appropriate for me to give a decision and I must remit the matter for rehearing and redetermination to an entirely differently constituted social security appeal tribunal. That tribunal has complete freedom to arrive at whatever decision it considers to be correct under regulations 12 and 30 of the Single Payments Regulations. My having allowed this appeal on the ground of want of reasons on the part of the original tribunal does not of course imply any opinion as to whether or not this claim for a single payment should ultimately succeed. That is entirely a matter for the new tribunal.

(Signed) M.J. Goodman
Commissioner

(Date) 4 February 1992