

CPAC

JBM/SH/12

Commissioner's File: CSB/075/1990

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A

QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. My decision is that the decision of the Liverpool social security appeal tribunal dated 19 December 1989 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 23 April 1990 the claimant has had the opportunity to comment and I have through her representatives her observations to me dated 26 April 1990. No useful purpose would be served by my setting out these references afresh here.

4. In my judgment the decision of the appeal tribunal is erroneous in point of law. In the light of the helpful submission dated 23 April 1990 I can take the matter quite shortly. In my judgment the submission dated 23 April 1990 is rightly made. There is no merit in my setting out in other words what has there adequately been dealt with. In my judgment the appeal tribunal have breached regulation 25(2)(b) of the Social Security (Adjudication) Regulations 1986.

5. 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 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. Specifically I draw to the necessity for all reasonable steps to be taken, at any further hearing, to ensure that at least one female member is present in accordance with the guidance contained in Decision R(SB) 2/88. The Commissioner is primarily a judge of law - the tribunal to whom I remit this case is the fact finding body - this is a supplementary benefit case - no doubt every effort will be made to ensure an early rehearing of this case by the new tribunal with a view to resolving all the issues involved at as early a stage as possible.

6. Accordingly the claimant's appeal is allowed.

(Signed) J.B. Morcom
Commissioner

(Date) 10 March 1992