JSW/BR

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SUPPLEMENTARY BENEFIT APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Francis Michael Westhead

Supplementary Benefit Appeal Tribunal: Liverpool

Case No: 6/588

1. My decision is that the decision of the Liverpool Appeal Tribunal, dated 20 February 1981, is erroneous in law and is set aside.

2. The applicant, a single man, who had been unemployed since July 1980, moved into an unfurnished flat on 12 December 1980. He had been in receipt of supplementary benefit and he applied for a single payment to purchase a cooker, a bed, bedding, linoleum and "pots and pans". The applicant had a three piece suite which he had bought second-hand and he had been lent a mattress and a sleeping bag but had no other bedding. He stated that, having no cooker, he had to eat in cafes which was proving very expensive.

3. The supplementary benefit officer refused a single payment for furniture. The tribunal found that the applicant had taken on the tenancy of unfurnished local authority accommodation and confirmed the decision of the benefit officer. In the reason for their decision, they stated that they found no justification under regulation 9 or 30 of the Single Payments Regulations to award a single payment and they could not accept that there was no suitable furnished accommodation available on Merseyside.

4. Procedure before an appeal tribunal cannot be compared with procedure in the courts. The rules of evidence do not apply and the chairman and members may take into account their own knowledge of local conditions. This must not, however, be carried too far. In the present case, the tribunal's reason that they could not accept that there was no suitable furnished accommodation available on Merseyside was not based on evidence before them or, if there was evidence, there is no mention of it. On the contrary, the evidence put before them in a letter from the local authority, dated 6 February 1980, is to the effect that it would be particularly difficult for people who were unemployed or in receipt of supplementary benefit to get privately rented accommodation and that there were very few vacancies of furnished accommodation. The local authority had no furnished flats for rent and only one small housing association had furnished accommodation. In view of that letter, a mere statement by the benefit officer that there was suitable alternative furnished accommodation in the area, without any supporting evidence from some outside source, is not sufficient to rebut the evidence in the letter from the local authority.

5. The benefit officer dealing with the appeal to the Commissioner has submitted that, in respect of the claim for a cooker, the appeal tribunal failed to have regard to, or misconstrued, the provisions of regulation 9(3)(b)(ii) of the Single Payments Regulations, which provides for a payment for a cooker if the applicant needs, and does not possess, that item. On the question of law, I agree with the benefit officer's submission, at the same time pointing out, for the benefit of the tribunal which rehears the appeal, that it is not for me to decide the facts.

6. In granting leave to appeal, I drew attention to whether the appeal tribunal had complied with regulation 7(2)(b) of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980. That rule provides -

"(2) The tribunal shall -

(a) record every determination in writing; and

(b) include in every such record a statement of the reasons for their determination and of their findings on material questions of fact; and

(c) ....."

The benefit officer has submitted that the reasons given by the tribunal for their decision are so inadequate that it is not possible to discover why the tribunal decided that the claimant was not entitled to a single payment for the items claimed. I agree with that submission but I think he has tended to over-elaborate the statement of reasons and findings of fact required, which can be done concisely, as long as they are unambiguous, and it is clear what the tribunal found, what they meant and what they intended. (See Decision CSB 6/81, paragraph 10). Plainly, it is not a satisfactory statement of reasons merely to record that the tribunal is not satisfied that the statutory conditions are met.

7. The applicant on the appeal relied upon the reasons given in the application for leave to appeal, adding that a fuller submission would follow. That was dated 14 July 1981 but no further submission has been made. In view of the benefit officer's submission not resisting the appeal, and my own opinion that the appeal should be allowed, I have given my decision without waiting for any further submission by or on behalf of the applicant. The applicant's appeal must be reheard by a differently constituted appeal tribunal.

8. The appeal is allowed.

(Signed) J S Watson
Commissioner

Date: 30 October 1981

Commissioner's File: C.S.B. 88/1981
CSBO File: SBO 107/81