

Commissioner's File: CSB/105/1990

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 Cleveland social security appeal tribunal dated 16 June 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 of the adjudication officer now involved in these appeals dated 26 April 1990 the claimant has had the opportunity to comment and I have the claimant's observations to me dated 1 May 1990 which are "No further Comments". No useful purpose would be served by my setting out these matters afresh here.
4. The relevant statutory provisions are referred to in paragraph 2 of the submission dated 26 April 1990 of the adjudication officer now involved in these appeals. Nothing is to be gained by my setting out those references afresh here. I would however add that two helpful decisions of the Commissioner have been added at pages 58 and following of the case papers. Nothing is to be gained by my rehearsing that law here.
5. In my judgment the decision of the appeal tribunal is erroneous in point of law. In the light of the submission dated 6 April 1990 and of the observations made in regard thereto by the claimant dated 1 May 1990 I can take the matter quite

shortly. The appeal tribunal have erred in point of law in that they have breached regulation 25(2)(b) of the Social Security (Adjudication) Regulations 1986. There is no merit in my stating what has adequately been set out in paragraphs 3 and 4 of the submission dated 26 April 1990 of the adjudication officer now involved in these appeals - suffice it to say that I adopt those paragraphs 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 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 it will be incumbent upon the new tribunal to (a) identify the domestic tasks the assessment unit cannot perform and (b) establish if these tasks are "ordinary domestic tasks" (for example can vacuuming the walls every week be regarded as an ordinary domestic task). No doubt every effort will be made to secure an early rehearing with a view to achieving finality of the issues involved in this supplementary benefit case.

7. Accordingly the claimant's appeal is allowed.

(Signed) J.B. Morcom
Commissioner

(Date) 12 March 1992