

CSB 114/84

VGHH/AJ

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF SOCIAL SECURITY COMMISSIONER

Name:

Social Security Appeal Tribunal: Rochdale

Case No: 15/4/351

1. This appeal succeeds. My decision is that the decision of the social security appeal tribunal dated 24 September 1984 is erroneous in point of law and I set it aside. It is expedient in the circumstances that I should give the decision that the tribunal should have given and my decision is that the claimant is entitled to a single payment for a cooker. The amount of that single payment should now be determined by an adjudication officer.

2. The claimant claimed a single payment for a cooker on 18 January 1984. His claim was refused by a supplementary benefit officer on 31 January 1984 and he appealed to a supplementary benefit appeal tribunal which on 9 April 1984 confirmed the benefit officer's decision on the ground that he had failed to show a need under regulation 3(2) of the Single Payments Regulations. The claimant appealed against this decision and on 30 July 1984 a Commissioner set that decision aside as erroneous in law and referred the case to a fresh tribunal. That social security appeal tribunal on 24 September 1984 found as a fact that there was a need for the cooker at the date of claim but refused the claim on the ground that the claimant had not complied with regulation 4 of the Claims and Payments Regulations (which requires a claimant to furnish certificates, documents etc on request). This was a clear error of law. The tribunal should have gone on to consider whether the claimant satisfied regulation 10(1) and (2) of the Single Payments Regulations. They should have considered this matter notwithstanding that regulation 4 of the Claims and Payments Regulations had not been complied with: see Decision R(SB) 29/83.

3. If the tribunal had gone on to consider regulation 10(1) and (2) they should, on the facts found by them, have concluded that the claimant was entitled to a single payment for a cooker. The item for which a single payment was claimed was a cooking appliance mentioned in regulation 9(c) namely "a cooker". Accordingly, the claim fell squarely within regulation 10(1)(b) in view of the fact

that, at the date of claim, the requirement imposed by that regulation that the claimant had not recently become a tenant or owner, which is contained in the opening words, were ultra vires (and had not been altered by amendment): see Decision R(SB) 26/84 (a decision of Mr Edwards-Jones). Turning to regulation 10(2), in my judgment the tribunal (though their findings might have been more clearly expressed) did find as a fact that the claimant's existing cooker was beyond repair i.e. beyond economic repair and there was evidence from four fitters on which they could properly come to this conclusion. That regulation is accordingly satisfied.

4. It follows that the claimant is entitled to a single payment for a cooker. The adjudication officer should now determine the amount of the single payment.

(Signed) V G H Hallett
Commissioned

Date: 14 January 1985

Commissioner's File: C.S.B. 114/1984
C A O File: A.O. 9260/84
Region: North Western