

Commissioner's File: CSB/170/1990

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A

QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. This was an appeal by an adjudication officer against the decision of a social security appeal tribunal given in this matter on 8 January 1990. On the evidence before me and in accordance with the submission now made by the adjudication officer. I determine that there was no revision on review of the determination or determinations awarding supplementary benefit in this case. It follows accordingly that the pre-condition for recovery of any overpayments under section 53(4) of the Social Security Act 1986 has not been satisfied. Accordingly the adjudication officer's various determinations on and after 29 January 1988 of amounts alleged to have been overpaid and to be recoverable under section 53 of the Social Security Act 1986 are nullities. It follows that the social security appeal tribunal in its majority decision in this matter dated 8 January 1990 was itself erroneous in law as made without jurisdiction and I set it aside.

2. The claimant had lost his job and signed on for unemployment benefit in November 1979. He continued to receive unemployment benefit. At the same time he was a member of the territorial army and received various monies for expenses and for attending on nights during the week, weekends and at fortnightly annual camps. No less than four different schedules of alleged overpayments covering the period 14 December 1979 to 7 October 1987 had been prepared by the adjudication officer, and the last alleged amount of overpayment was £6,532.16 (from a starting figure of £3529.41). Given the decision which I have reached it is not necessary for me to canvass the interesting questions which this appeal raises, and I do not, therefore do so.

(Signed) Leonard Bromley
Deputy Commissioner

(Date) 27 February, 1992