

LB/MB

Commissioner's File: CSB/212/1985

C A O File: AO 2161/85

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE CHIEF SOCIAL SECURITY COMMISSIONER

IDENTIFIABLE DECISION

NOT TO BE SENT OUT OF

THE DEPARTMENT

Social Security Appeal Tribunal:

Case No: 15/31/2

1. For the reasons which I shall give my decision is that the social security appeal tribunal erred in its decision on 20 September 1984 in relation to the items of equipment to which I shall refer, and I remit the matter accordingly to a differently constituted tribunal for determination. The appeal is rightly supported by the adjudication officer.

2. The claimant is a single parent who had at the date of claim on 13 June 1984 one young child; she was also shortly due to have another child. She had been living with her mother but was leaving and had been offered the tenancy of an unfurnished local authority property. She had no furniture or furnishings. On her behalf a claim was made for single payments for the purchase of a comprehensive list of furniture, furnishings and household equipment, totalling rather more than 70 items. Entitlement to payment in respect of a number of items was accepted by the adjudication officer and the claimant succeeded on appeal in establishing entitlement to payment in respect of certain additional items. No entitlement to payment in respect of the items which are the subject-matter of the present appeal was accepted at either level below. The items which are the subject-matter of the appeal are a number of items of kitchen and household equipment as identified in the claimant's appeal and also two easy chairs, following a claim for a 3-piece suite as to which the adjudication officer had agreed entitlement in respect of the cost of two armchairs, his decision in that respect being confirmed by the tribunal.

3. There is no issue but that the claimant satisfies the requirements of regulation 10 of the Supplementary Benefit (Single Payments) Regulations 1981 [SI 1981 No. 1528]. She is entitled thereunder to payment in respect of any item which falls within the category of "any item of essential furniture or household equipment referred to in regulation 10(2)

provided always that the requirements in relation to need in regulation 3(1) and (2) of the same regulations are satisfied. Regulation 3(1) and (2) is materially as follows:-

"3.-(1) In these regulations "single payment" means supplementary benefit payable by way of a single payment to meet an exceptional need in circumstances to which Parts II to VIII of these regulations apply.

(2) A single payment shall be made only where -

(a) there is a need for the item in question; and

(b) in a case in which the payment would be in respect of the purchase of a particular item, the assessment unit -

(i) ... does not already possess that item, and

(ii) does not have available to it a suitable alternative item, and -

(iii) has not unreasonably either disposed or failed to avail itself of such an item."

Regulation 9 is materially as follows:-

"9. In this Part of these regulations "essential furniture and household equipment" means the following items:-

(a) sufficient beds and mattresses and dining and easy chairs for all the members of the assessment unit, and a dining table;

....

(i) minor items such as cleaning implements, cooking utensils, crockery and cutlery ...."

4. In my judgment, as the adjudication officer rightly submits, the tribunal erred in not treating the claim for payment in respect of the items of kitchen and household equipment now under appeal individually but collectively, leaving it unclear as to each item why payment in respect of it was rejected. I also consider that the tribunal erred in referring to what it calls the tests of "essential" set out in decision R(SB)10/81, since it thereby applied the criterion of essential or not to the items of kitchen and household equipment. This was wrong. In my judgment the word "essential" in regulation 9 (carried into regulation 10(2)) is part of the portmanteau description of all the separate items which fall within the subparagraphs of regulation 9 and does not import a separate test of its own. Even if an item is identified as falling within any of the subparagraphs of regulation 9 there is no entitlement to payment in respect of it unless the criteria established by regulation 3(which I have set out) as to need etc. are satisfied.

5. With regard to the claim for a 3-piece suite as to which the adjudication officer had allowed payment for two easy chairs the tribunal found:-

"Reg. 9(a) is quite specific. There can only be easy chairs for the members of the assessment unit. This does not include visitors."

In my judgment it was an error of law to approach the application of regulation 9(a) as if necessarily upon its true construction it limited the number of easy chairs in all circumstances to the number of members of the assessment unit. The correct approach is that exemplified in decision CSSB/130/82, in which at paragraph 6(b) the Commissioner said:-

"I accept the submission of the claimant's representative that it is not necessarily appropriate to award a claimant who lives alone only one dining chair and one easy chair. I agree however with the contention put forward by the benefit officer's representative at the oral hearing before me that it is for the determining authorities to decide in all the circumstances the numbers of items which should be allowed in respect of such items as dining and easy chairs, and that it should be left to the commonsense of those adjudicating authorities what should be awarded having regard to the particular facts and circumstances of any particular case".

Moreover, since the tribunal mis-directed itself as to the true application of regulation 9(a) it made no specific findings of fact with regard to the rejection of the appeal to it concerning the number of easy chairs; this also was an error of law.

6. The tribunal to which this matter is remitted should do the following:-

- (1) Consider each item in respect of which the appeal is now before me separately (apart from the two easy chairs).
- (2) Consider as to each item of kitchen or household equipment whether it falls within "minor items" under regulation 9(1).
- (3) Consider whether as to each item which falls within regulation 9(1) the requirements of regulation 3(1) and (2) are satisfied.
- (4) Consider whether as to any item of kitchen or household equipment for which payment is not authorised pursuant to the above steps regulation 30 is satisfied.
- (5) As to the number of easy chairs, determine what number is sufficient within the meaning of regulation 9(a) and the criterion which I have set out, applying also regulation 3(1) and (2). Then, if payment for an additional easy chair or chairs is not pursuant

(20)

to this procedure authorised, consider regulation 30 in relation to the easy chairs (although it is difficult to see how on the facts as at present before me regulation 30 could be satisfied in connection with this item. That is however a matter for the tribunal and it should turn its attention to the point).

(6) As to each item make the appropriate material findings of fact and give its reasons.

7. The need for individual treatment of the items claimed is important, although in view of the number it is necessarily burdensome. There is however in my judgment no proper way of doing otherwise.

8. My decision is as in paragraph 1 above.

(Signed) Leonard Bromley  
Chief Commissioner

Date: 23rd October 1985.