

DGR/SH/13

Commissioner's File: CSB/219/1990

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 social security appeal tribunal given on 6 December 1989 is erroneous in point of law, and accordingly I set it aside. As it is expedient that I give the decision the tribunal should have given, I further decide that the original award of supplementary benefit should be reviewed and revised, so that there is no entitlement to benefit for the inclusive period from 13 February 1985 to 4 June 1985, and that the overpayment arising, amounting to £901.20, is recoverable from the claimant by reason of his misrepresentation of a material fact.

2. This is an appeal by the claimant, brought with the leave of a Commissioner, against the decision of the social security appeal tribunal of 6 December 1989.

3. The facts of this case are on all fours with those arising in the appeal on Commissioner's file CSB/220/90. The only significant difference is that the period of overpayment is different. All the other relevant facts are identical. The tribunal found in the present case that "renovation work on top flat was carried out and finished in November 1984" i.e. before the commencement of the period in issue. Moreover, on the evidence they were entitled to reach that conclusion.

4. Accordingly, for the reasons set out in my decision on CSB/220/90, a copy of which is for convenience attached hereto, the tribunal's decision must be set aside, but I can conveniently substitute my own decision, which is in the terms set out in paragraph 1.

(Signed) D.G. Rice
Commissioner

(Date) 3 February 1992