

CSB 277/1983

Payment by credit card

JGM/EA

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SUPPLEMENTARY BENEFIT APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF SOCIAL SECURITY COMMISSIONER

1. My decision is that the decision of the supplementary benefit appeal tribunal dated 24 November 1982 was not erroneous in point of law.

2. On 2 June 1982 the claimant made a claim for a single payment in respect of the cost of removal expenses. The expenses in question were those of the hire of a vehicle in which the removal was done. The removal was found to have taken place on 23 May 1982, and the car hire cost was £95.60 which the claimant paid for on that day by use of his Barclaycard. According to him he thereby overdraw his credit limit. His claim was rejected by the benefit officer and on appeal by the appeal tribunal. The benefit officer, and on appeal the appeal tribunal, rejected the claim on the ground that the removal cost having been paid before the claim was made there was no need for the payment at the date of claim; (Regulation 3(2)(a) of the Supplementary Benefit (Single Payments) Regulations 1981).

3. Regulation 13 of the Single Payments Regulations makes provision for the making of single payments in respect of the cost of removals. In my decision in the case on Commissioners' file C.S.B. 45/83 I expressed the view that in some circumstances a debt incurred to some third party for the purpose of paying for an item in respect of which a single payment could be awarded might be a claim for expenses in connection with that item; and, if that view had been found acceptable, it might have been possible to say that a claim for money to pay the claimant's Barclaycard account in respect of his removal expenses was a claim for a single payment in respect of those expenses. My decision was however disapproved by a Tribunal of Commissioners in the Decision on file C.S.B. 748/82 (to be reported as R(S.B.) 47/83). It emerges from the latter decision that the tribunal in this case correctly decided that a single payment could not be made if they were correct in holding that payment by Barclaycard had extinguished the debt for the car hire by the time that the claim was made. There can be no doubt

that once the bank had discharged the liability to the car hire company the debt to them was extinguished. But no enquiry was made as to when that happened and unless it was right to hold that the debt was for present purposes extinguished as soon as payment by Barclaycard was accepted by the company the decision would not be correct.

4. It has been held that where a debt is paid by cheque which is accepted by the creditor the debt is not immediately regarded as paid but the right to sue for the debt is suspended (see Halsbury's Laws of England (4th edition) Vol 9 paragraph 501). But payment for an item by credit card (where the card company becomes liable to the supplier of the item) in my judgment more closely resembles payment by confirmed letter of credit, which operates as conditional payment of the debt (see the above volume of Halsbury's Laws of England at paragraph 500). If the debt is duly discharged by the card company the payment becomes absolute. In my judgment unless the card company defaults (and in this case it did not) the debt must be regarded as paid from the moment that the card is accepted by the creditor. I hold therefore that the decision was not erroneous in point of law. The debt had been paid at the time of the claim.

5. Had I taken a different view in this point the claimant would have still been up against another obstacle. Regulation 13(3) requires the furnishing of two (or in some cases one) estimate of removal expenses. It has been held (see Decision R(S.B.) 23/82) that this is a condition precedent to any payment of a single payment for those expenses; an estimate in its nature is something made before the removal is done. The evidence does not suggest that the claimant is able to satisfy this condition. I do not find it necessary to go further into this point as I have held the decision correct on the ground on which the tribunal gave it. The appeal fails.

(Signed) J G Monroe
Commissioner

Date: 16 November 1983

Commissioner's File: C.S.B. 277/1983
CSBO File: 281/83
Region: Midlands