

DGR/SH/13

Commissioner's File: CSB/311/1990

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 25 June 1990 is erroneous in point of law, and accordingly I set it aside. I direct that the appeal be reheard by a differently constituted tribunal who will have regard to the matters mentioned below.

2. This is an appeal by the claimant, brought with the leave of the tribunal chairman, against the decision of the social security appeal tribunal of 25 June 1990.

3. On 25 June 1990 the tribunal decided that the claimant was not required to be available for employment as a condition of entitlement to supplementary benefit as from 21 January 1988. However, the claimant had made his request on 29 October 1987, and had asked for his exemption to be backdated. Unfortunately, the tribunal did not consider this aspect of the case or, if they did, did not explain why there should be no earlier exemption than 21 January 1988. As a result the claimant has been left in the dark as to why he did not succeed in respect of an earlier period.

4. Accordingly I must set aside the tribunal's decision, and direct that the appeal be reheard by a differently constituted appeal tribunal. They must:-

- (1) consider all the relevant paragraphs of regulation 6 and decide whether the claimant is able to satisfy one (or more) of those paragraphs as from 29 October 1987 (the date of his request for review) or from any prior date with reasons for their decision, and insofar as it is relevant

(2) decide whether the provisions of regulation 72 of the Adjudication Regulations are satisfied, by which the limitations on the payability of arrears prescribed by regulation 69 are circumvented.

5. Accordingly, I allow this appeal.

(Signed) D.G. Rice
Commissioner

(Date) 2 March 1992