

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. For the reasons set out below, the decision of the social security appeal tribunal given on 6 July 1990 is not erroneous in point of law, and accordingly this appeal fails.

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 6 July 1990.

3. The adjudication officer reviewed the original award of supplementary benefit from and including 22 November 1982, by reason of a change of circumstances since that awarding decision was given, and his revised decision was to the effect that benefit should be reduced by the amount of the increase in the claimant's occupational pension, that as a result there had been an overpayment of benefit amounting to £1,645.02 in respect of the inclusive period from 9 December 1982 to 27 January 1988, and that the same was recoverable from the claimant by reason of her failure to disclose the material fact that her occupational pension had, from time to time during the relevant period, increased. In due course, the claimant appealed to the tribunal who in the event upheld the adjudication officer.

4. For the reasons set out in paragraphs 4 to 6 inclusive of the submissions of the adjudication officer now concerned dated 10 April 1991, there is no substance in the actual grounds of appeal relied upon by the claimant.

5. However, after dealing so admirably with the grounds of appeal put forward by the claimant, it is somewhat surprising to find that the adjudication officer then goes on to support the appeal on a wholly spurious ground. He contends as follows:-

" 7. It is argued that the tribunal erred in law by failing to mention and have regard to R(SB) 40/84 which decision was apparently cited in support of the representative's submissions to the tribunal. It is not apparent why this particular decision was referred to or what contention it

was felt to support. However in my submission if a decision was so cited it was incumbent on the tribunal to give their reasons for their apparent rejection of its relevance to this case. As such a failure is in breach of the requirements imposed by regulation 25(2)(b) of the Adjudication Regulations, the decision is erroneous in law (see R(SB) 6/81 at paragraph 14) and on this ground I support the appeal."

The adjudication officer could not be more wrong. There is no obligation on a tribunal automatically to refer to decisions cited to them, and to explain, if such is the case, their irrelevance. They are under no duty to prove in effect negatives. It is for the claimant to establish his case citing whatever authority he might wish. If such authority commends itself to the tribunal, doubtless this will be reflected in their decision. If it does not, then normally there will be no mention of it. Likewise arguments which are propounded and fail to find favour will be disregarded, and normally are not mentioned. Of course, tribunals can, (and judges often do so in the courts) refer to attractive arguments which in the event they reject, but they are not obliged to do so. All that tribunals are required to do is to make proper findings of fact, and explain, on the basis of such findings, why they reach the conclusion they do. They are under no obligation to explain the irrelevance of authorities cited to them or why spurious arguments have failed to commend themselves.

6. In short, I see nothing wrong with the tribunal's decision, and have no hesitation in dismissing this appeal.

(Signed) D.G. Rice
Commissioner

(Date) 1 May 1992