

Single Payments - need of a couple is for a double bed. Single bed is not a suitable alternative!

Commissioner's File: CSB/415/1985

C A O File: AO 2211/85

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 Birkenhead social security appeal tribunal dated 5 November 1984 is erroneous in point of law. Accordingly I set it aside and give the decision that the tribunal themselves should have given namely to award the claimant a single payment for a double bed and a single payment for bedding therefor.
2. This is an appeal to the Commissioner by the claimant with the leave of the tribunal chairman from the decision of the appeal tribunal confirming the decision of the adjudication officer issued on 10 August 1984 "A single payment of £39.00 for a single bed and a single payment of £60.50 for bedding. (Regulations 9 and 12 of the Single Payments Regulations)".
3. The facts and history of the case are dealt with in paragraphs 1 to 6 inclusive of the submission dated 1 April 1985 of the adjudication officer now concerned on which the claimant has had the opportunity to comment. I do not propose to set these matters out afresh here.
4. The relevant statutory provisions are referred to in paragraph 7 of the submission dated 1 April 1985 of the adjudication officer now concerned. Nothing is to be gained by my setting out those references afresh here.
5. In my judgment the tribunal erred in point of law in that they confirmed the award of single payments for a single bed and bedding therefor when the items claimed were a double bed and bedding therefor. The issue before the tribunal was whether at the date of claim the claimant had a need for a double bed in accordance with the relevant statutory provisions that is regulation 3(2)(a) of the Single Payments Regulations, whether he had available a suitable alternative and whether he had unreasonably disposed of or failed to avail himself of a double bed.
6. The claimant in his application for leave to appeal dated 10 December 1984 (though apparently signed on "12/12/84" but in any event received on 17 December 1984) states:-

"Mrs. H-- single bed is being treated by the Tribunal in effect as a suitable alternative item under Regulation 3(2)(b)(ii) of the Single Payments Regulations. However, in R(SB)1/84, the Commissioner held that "suitable alternative item" was to be construed subjectively having regard to the individual needs of the claimant, although such an approach

was not to be pursued to such absurd lengths that personal idiosyncracies were catered for to the exclusion of all objective criteria based upon reasonableness. The single bed has been unsuitable for Mrs. H-- since her marriage because she wishes to sleep with her husband. This is a normal and reasonable need of a married person, not a "personal idiosyncrasy". The single bed is therefore not a suitable alternative to a double bed in our case."

7. I accept the claimant's above submission.

8. In accordance with my jurisdiction set out in regulation 27 of the Social Security (Adjudication) Regulations 1984 my decision is as set out in paragraph 1 above. As the chairman's note clearly records uncontested evidence although in the absence of findings of fact as such on form AT3 in my view it is expedient for me to give the decision that the appeal tribunal should have given. The claimant manifestly satisfies the conditions of regulation 3(2) and 9(a) in the case of a double bed, and of regulations 3(2) and 12 of the Single Payments Regulations in the case of double-sized bedding.

9. Accordingly, the claimant's appeal is allowed.

(Signed) J B Morcom  
Commissioner

Date: 25 June 1985