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CSB 428/1983

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SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF SOCIAL SECURITY COMMISSIONER

Name: Albert Bridgeman

Supplementary Benefit Appeal Tribunal: Brighton and Hove

Case No: 05/79

[ORAL HEARING]

1. My decision is that the decision of the West Sussex Supplementary Benefit Appeal Tribunal dated 22 February 1983 is not erroneous in point of law.
2. This is an appeal by the claimant to the Commissioner with the leave of the Commissioner against the unanimous decision of the appeal tribunal confirming the decision of the benefit officer issued on 16 December 1982 'Supplementary Pension awarded at the rate of £14.90 weekly from the prescribed pay day, Thursday, in week commencing 13 December 1982 to and including the prescribed pay day in week commencing 14 February 1983'.
3. The facts and history of the matter are dealt with in paragraphs 1 to 3 inclusive of the submission dated 14 July 1982 of the benefit officer now concerned on which the claimant has commented both in writing and orally before me. In particular the claimant informed me that in paragraph 2 of the written submission dated 14 July 1982 his then age should have been shown as 72. The claimant requested an oral hearing to which request I acceded. Accordingly on 11 January 1984 I held an oral hearing. The claimant was present and represented himself. His address to me was supplemented by a brief oral submission made on his behalf by Mrs R.Y.A. Eastwood. (The claimant, it is clear, had spent very considerable time on legal research and on questions of statutory construction. His address to me ranged widely from the cost of washing powder and the cost of gas for heating water to Charles the First and the Divine Right of Kings. It is no disrespect to him if I do not go through in this decision the entire ambit of this submission raised before me.) I would also add that I have the advantage of voluminous written submissions made by the claimant in the case papers. Mrs Conlon of the Solicitor's Office Department of Health and Social Security represented the benefit officer. I am indebted to her for her assistance at the hearing.
4. The statutory provisions and the decision of the Commissioner referred to in paragraph 4 of the submission dated 14 July 1982 are relevant to the issue before me. Nothing is to be gained by my setting out those references afresh here or the relevant provisions of the legislation save in so far as I do so immediately below.

5. I would add that in argument before me at the hearing I was also referred to the following decisions namely Regina v Greater Birmingham Appeal Tribunal [1974] 10.B.D.543; Maunsell v Olins [1975] 1 AllER16 at 25 and R(SB)4/83).

6. Regulation 13 of the Supplementary Benefit (Requirements) Regulations 1980 **as amended provides so far as relevant as follows:-**

13-(1) Subject to paragraphs(2) to(7), the weekly amount specified in column (2) of any paragraph in Part II of Schedule 3 shall be applicable to the claimant -

.....

(c) in relation to paragraphs 14 and 17, where the condition in column (1) of the paragraph is satisfied.

(5) Subject to paragraph(6), where a long-term rate for normal requirements is applicable to the claimant, whether as a person to whom paragraph 1(a) or 3(a) of the table applies or under regulation 7, amounts shall only be applicable to him under Part II of Schedule 3, other than paragraphs 8 and 11, to the extent that in aggregate they would, but for this paragraph, exceed 50p".

Paragraph 17 of Part II of Schedule 3 to the Requirements Regulations **as amended** provides as follows:-

Column (1)

"Where -

(a) the laundry of the assessment unit cannot be done at home because all adult members of the household are ill, disabled or infirm or because there are no suitable washing or drying facilities; or

(b) the quantity is substantially greater, for example because of incontinence, than the amount which would normally be generated by an assessment unit of the same composition."

Column (2)

"The amount by which the estimated weekly laundry costs exceed £0.45".

7. I refer in this paragraph of my decision to such of the oral submissions of the claimant as I think it necessary to set out. The claimant **submitted that a pensioner or a long-term claimant should only have one figure** of 50p deducted from the amount accepted by the benefit officer as his estimate of additional requirement caused by the lack of washing or drying facilities within the household. The benefit officer, so submitted the claimant, has deducted 95p from the accepted estimate of £1.50 and the claimant submitted that the words which predicate regulation 13, namely 'subject to paragraphs 2-7', mean in effect that where a person is a **long-term claimant** or pensioner the specifications expressed in paragraph 5 will supersede paragraph 1 in relation to column (2) paragraph 17 of the third Schedule which specifically deals with laundry. The claimant referred to paragraph 8 of the submission dated 14 July 1982 and submitted that

there is in law no such thing as 'available scale margin' in the statutory provisions. The claimant referred me to the first Schedule to the 1976 Social Security Act and in particular to paragraph 6(2) contained therein. He stated that usually in drafting legislation the draughtsman always tried to use the same terms as used in the original Act but that had not been done here. The claimant submitted that after the 1974 case of R v Greater Birmingham Appeal Tribunal there is no record in the Schedule to the 1980 Act that this had been repealed or amended. The claimant then submitted that following the introduction of some 14 statutory instruments (Supplementary Benefit (Requirements) Regulations 1980 in particular) on 24 November 1980 all discretion had been removed from benefit officers and 'the Minister on the ending of the Supplementary Benefit Commission has taken the sole right that whatever he fixes in the Schedule must be applied - it is not a benevolence as may be associated previously with the Commission when no fixed sum was specified .. now since the 1980 Act additional requirements are specified and fixed to an amount of monetary payment ... what is done here is to use two deductions for a single person - how can you use two additional requirements for one single person - you can use two estimates for a relevant person but not for a single person .. when the Schedule says what exceeds 45p that was what the [the Minister] intended - he [the Minister] allowed the cost of powder and heating water, when a person received £7 per week more as a pensioner he has extended the expenditure to 50p.' The claimant referred me to the decision of the House of Lords in Maunsell v Olins [1975] AllER at page 25 for the general proposition that words may be used in a technical meaning. The claimant referred to paragraph (F) of the submission dated 14 July 1982 and submitted that "to use 'except' for 'but' makes complete nonsense - what I submit it is that 'but' means 'nevertheless'". The claimant stated that what the Minister was doing on 24 November 1980 by introducing some 14 statutory instruments was 'he was trying to confuse and befuddle all the Mps - if he wanted to do away with supplementary benefit he had to put it before Parliament'. The claimant referred me to the Interpretation Act 1978 for the proposition that the singular may include the plural depending on the context. In conclusion the claimant stated "I challenge anyone to look through any dictionary where you find the phrase 'subject to' as meaning 'qualified' - they are creating meanings to suit their own purposes. 'Subject to' means it has to submit and give way to in relation to paragraph 13(5) .. if you look closely into regulation 13(2) you find it is applicable to the Schedule .. Column (2) of Schedule 3 is a statement of a theme and the other paragraphs 2 to 7 are variations on that theme. The theme is where laundry is concerned a deduction has to be made in any case". The claimant also submitted that benefit officers have found it difficult to understand the regulations and the legal technical language.

8. I refer in this paragraph of my decision to such of the oral submissions made before me by Mrs Conlon as I think it necessary to set out. Mrs Conlon submitted that she stood by the written submissions. Mrs Conlon submitted that the claimant in regard to regulation 13(1) of the Requirements Regulations has argued that the words 'subject to paragraphs 2 to 7' has a particular meaning - the effect so submitted Mrs Conlon - of regulation 13(1) is that you look at regulation 13(1) and assess the weekly amounts specified in column (2) of any paragraph in Part II of Schedule 3. This is the starting off point. You look at the Schedule to see what paragraph applies - that is paragraph 17, it is the relevant paragraph. In regard to

paragraph 17, column (2), the amount is an estimated average of weekly laundry costs and from that 45p is deducted. Regulation 13(1)(c) deals with paragraph 17. Regulation 13(1) means the claimant is allowed £1.50 from which is deducted £0.45p resulting in £1.05. The question is, so submitted Mrs Conlon, does the claimant get £1.05 weekly or is it subject to paragraphs 2 to 7 of regulation 13 of the Requirements Regulations. The claimant is a long-term pensioner. Regulations 13(5) applies, so that £1.05 will be subject to regulation 13(5). Paragraph (6) of regulation 13 does not apply. Regulation 13(5) reinforces the point that you look at the calculation under Schedule 3, Part II, paragraph 17 first, because it says the amounts shall be applicable. It is necessary to make various calculations under this Schedule to find out what the aggregate amount is in order to deduct the 50p. The claimant argues, so Mrs Conlon submitted, that amounts and aggregation relate not to individual additional requirements under Schedule 3 Part II but relate to relevant persons. It does not relate only to relevant persons, so ran Mrs Conlon's submission, **the terms** 'amounts' and 'aggregation' in fact relate to payments made under Schedule 3 - regulation 13(5) refers to this. The claimant is a pensioner on a long-term scale rate to whom paragraph 3(a) of the Table as defined in regulation 2(1) of the Supplementary Benefit (Requirements) Regulations 1980 applies. The relevant regulations refer to 'amounts' in the plural. The claimant was receiving only one payment under paragraph 17. However, so submitted Mrs Conlon, the **plural** includes the singular unless the context otherwise provides, see section 6 of the Interpretation Act 1978. The claimant is receiving one additional requirement under paragraph 17. In regard to regulation 13(5) the argument is that the words 'but for this paragraph' mean there is a reinforcement of the point that but for this paragraph the claimant would have received £1.05 but this has been reduced by 50p due to regulation 13(5). Mrs Conlon then referred me to the record of the tribunal and submitted that the tribunal made findings of fact and gave reasons to support their decision and had dealt correctly with the weekly scale rates and the long-term scale rates. I accept Mrs Conlon's submissions as set out in this paragraph of my decision. The appeal tribunal has on the face of its record done sufficient and not erred in law. It is unnecessary to deal further with the claimant's submissions.

9. In accordance with my jurisdiction as laid down in rule 10(8) of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980 as amended by rule 6(2) of S.I. 1980 No. 40 my decision is as set out in paragraph 1 of this decision.

10. Accordingly the claimant's appeal is dismissed.

Signed J B Morcom  
Commissioner

Date: 24 February 1984

Commissioner's File: CSB/428/1983  
C SBO File: 446/83  
Region: London South

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Law

CSB 428/1983

AR - sup L.T. cur J

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9. In accordance with my jurisdiction as laid down in rule 10(8) of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980 as amended by rule 6(2) of S.I. 1980 No. 40 my decision is as set out in paragraph 1 of this decision.

10. Accordingly the claimant's appeal is dismissed.

Signed J B Morcom  
Commissioner

Date: 24 February 1984

Commissioner's File: CSB/428/1983  
C SBO File: 446/83  
Region: London South