

JGM/EFM

SUPPLEMENTARY BENEFITS ACT 1976

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

*Central heating system  
& suitable alternative  
system*

Case No: C.S.B. 444/1981

1. My decision is that the decision of the supplementary benefit appeal tribunal dated 26 May 1981 was not erroneous in point of law.

2. The claimant is a woman aged 78 at the time of her claim for a single payment for a gas fire. She was at the time in receipt of a supplementary pension and so satisfied the first condition for a single payment, i.e. that laid down in section 3 of the Supplementary Benefits Act 1975 as amended. She had less than 3 months before the time of her claim moved into a flat in Brighton having moved from Sheffield to be nearer her daughter in London. The flat had an oil-fired central heating system which she said in her claim was too expensive and she asked for a payment to help her install a gas fire. The benefit officer refused a single payment for this purpose on the ground that the conditions of an award for a heating appliance were not satisfied inasmuch as the claimant already had a functional central heating system, reference being made to regulation 3 of the Supplementary Benefit (Single Payments) Regulations 1980 (the Single Payments Regulations). The claimant appealed to the supplementary benefit appeal tribunal who made an award of £50 for a gas fire. The benefit officer now appeals to the Commissioner (with my leave) contending that the decision is erroneous in point of law. He asked for an oral hearing of the appeal. But I have been informed that the decision has not been implemented; and, conscious as I am that if there is an oral hearing the winter will be over before my decision would be published, I decided to determine the appeal without a hearing.

3. A single payment for a heating appliance may be awarded under regulation 9(3) of the Single Payments Regulations but any award under those regulations has to satisfy, and must not fall foul of, regulations 3 to 6 of those regulations. The benefit officer has throughout taken the point that regulation 3(2)(b) precludes the payment. This provides that a payment shall only be made where, in the case of a payment in respect of the purchase of an item, the "assessment unit" (in this case the claimant) does not possess that

item or have available to it a suitable alternative item and has not unreasonably disposed of or failed to avail itself of such an item. The claimant did not possess a gas fire but she had available to her an alternative (viz. the oil-fired central heating) and she can meet the requirements of the regulation only by showing that the item was not suitable; and, even if it was not suitable, she would have to be prepared to meet the suggestion (if the facts warranted it) that she had unreasonably either disposed of it or failed to avail herself of it. No such suggestion has been made in this case and the only question was whether the oil-fired central heating was suitable. The tribunal heard evidence that the claimant had purchased oil for £80 which had lasted her three weeks and they found that the system was too expensive for her to run. They did not specifically use the word unsuitable and they did not refer in terms to regulation 3(2)(b). It would perhaps have been clearer if they had done so. As has been pointed out by the Commissioner in another case on supplementary benefit, the exercise of identifying the regulations being applied serves to concentrate the mind on the points to be decided and thus obviates error. In this case however the grounds of the decision in my judgment emerge with sufficient clarity for it to be said that there is no error of law. I dismiss the appeal.

(Signed) J G Monroe  
Commissioner

Date: 1 December 1981

Commissioner's File: C.S.B. 444/1981  
CSBO File: SBO 613/81