

CSB 526/1984

MJG/BOS

*Essential household  
effects.*

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF SOCIAL SECURITY COMMISSIONER

Name: Feyyaz Soker

Supplementary Benefit Appeal Tribunal: Wimbledon

Case No: 19/134

[ORAL HEARING]

1. I allow the claimant's appeal against the decision of the supplementary benefit appeal tribunal dated 31 October 1983 (relating to the claim for storage charges as from 5 February 1983) as that decision is erroneous in law and is set aside. I remit the case for rehearing and redetermination to a differently constituted social security appeal tribunal: Supplementary Benefits Act 1976, section 2(1) (as substituted by paragraph 14 of Schedule 8 to the Health and Social Services and Social Security Adjudications Act 1983) and the Social Security (Adjudication) Regulations 1984 [S.I. 1984 No 451], regulation 27.

2. This is one of four appeals by the claimant to the Commissioner (on Commissioners' files Nos C.S.B./523/1984, C.S.B./524/1984, C.S.B./525/1984 and C.S.B. 526/1984). I have already set out in my decision on Commissioner's file C.S.B./524/1984 the full facts relating to these appeals and I do not therefore propose to reiterate them here otherwise than to refer to those which are directly relevant to the present appeal. This appeal was by my direction heard, together with the other three appeals, at an oral hearing before me on 9 October 1984, at which the claimant was present and was accompanied by Mr L C Held and the adjudication officer was represented by Mr C d'Eca of the Solicitor's Office of the Department of Health and Social Security. I am indebted to the claimant and to Mr d'Eca for their assistance to me at the hearing.

3. After his return to this country from Turkey (on 29 January 1983), the claimant claimed an additional requirement to his weekly supplementary benefit for storage charges of one box of his own personal effects (for details see below) which had been in storage in Rye, Kent since August 1982. The position as to earlier storage charges is dealt with in my decision on Commissioner's file No C.S.B./524/1984. The original tribunal that heard this case decided that the additional requirement for storage charges was not payable but they clearly erred in law in their reason for decision that the items in storage were not "furniture", that not being the correct test (see below). The tribunal listed the contents of the box in their findings of fact as being "a filing cabinet, desk, 13 cartons, 2 hat boxes, a trunk, 7 bundles of pictures, a square

drawing board, a small carton, 2 folders, 3 rolled drawing holders and a wooden box". The tribunal noted that the relevant provision, namely paragraph 19 of Schedule 3 Part II of the Supplementary Benefit (Requirements) Regulations 1980 [1980 No 1299], referred in its "head-note" to "storage of furniture". In looking only at the "head-note", the tribunal clearly erred in law, as both the claimant's representative (in a written submission to the tribunal) and the adjudication officer now concerned (in a written submission to the Commissioner dated 30 August 1984) concur in submitting. The "head note" or marginal note to a legislative provision is not of itself law. If it conflicts with the provisions of the regulation etc itself, it must be ignored. The relevant wording of paragraph 19(a) itself refers to a position where "a person has stored essential household effects belonging to and intended for the use of the assessment unit" (my underlining).

4. The operative phrase therefore is not "furniture" but "essential household effects", which, in my view, clearly has a wider meaning than just "furniture". Equally it cannot just mean the same as "personal possessions" because the word "effects" is qualified by the word "household". In my judgment, it must mean those pieces of moveable property which have a connection with a person's settled home, as distinct for example from his work-tools or possessions which might happen to be in his house at the time. Moreover the effects must be "essential" in the sense defined in reported Commissioner's Decision R(SB) 10/81 where (at paragraph 9) the learned Commissioner held that "essential" meant

" 'necessary' in the sense that luxuries are differentiated from the 'necessaries of life' and as importing a requirement of substantial need, judged by the modest general standard of living to the provision of which the award of supplementary benefit is directed; but falling short of a requirement of being 'indispensable' if life is to be sustained or of so rigorous a test as is imposed by regulation 30 of [the Single Payments] regulations."

5. A written submission was put forward on the claimant's behalf to the original tribunal that all the items remaining in store must be "essential household effects" because "[they are] ..... very essential to [the claimant], consisting of valuable family documents, business papers, his books, his desk and a filing cabinet. Without these items, he is unable to resume his normal life. To lose them would be an irreparable loss of very valuable personal possessions". I consider that puts the matter too widely (see above). I leave it to the new tribunal that rehears this case to make detailed findings of fact as to the nature of the belongings for which the claimant wished to have an additional requirement for storage charges and then to decide whether or not they constituted "essential household effects" within the meaning of paragraph 19 of Part II of Schedule 3 of the Requirements Regulations. It should be noted for example that that phrase is narrower than the expression in the relevant regulation relating to removal costs (regulation 13(1) of the Single Payments Regulations) which refers simply to "the household goods and the personal effects .....". Consequently, the fact that originally there was reimbursement to the claimant of his costs of removal of these particular items now under

consideration does not necessarily mean that they were "essential household effects" within the meaning of paragraph 9 of Part II of Schedule 3, to merit a continuing storage charge.

6. If the new tribunal should find that the whole or part of the effects in question were "essential household effects" then they may need to consider the restriction in paragraph 19 of Schedule 3 (Part II) of the Requirements Regulations in these words, "but an amount shall not be allowed under this paragraph for those items [storage charges] for more than 12 months". At the hearing before me Mr d'Eca asked me to indicate whether in law that restriction of 12 months maximum applied only to an individual claim so that, if there were a further claim (as on one view of the matter there might have been in this case when the claimant returned from Turkey to this country) there would then be a further 12 months' charges payable. The question is whether the limit is 12 months per claim or 12 months per particular storage. In my judgment, looking at paragraph 19 as a whole, the 12 months' restriction does not relate to a claim or claims but relates to one storage of a number of essential household effects on a particular occasion. The whole theme of paragraph 19 is that an additional requirement is for a comparatively temporary storage of essential household effects (as of course such storage usually is). Paragraph 19(c) refers for example to the necessity for the claimant to be "using his best endeavours to obtain accommodation which will remove the necessity for storage". In my judgment therefore the 12 months' limit is an overall absolute limit for any particular storage on any given occasion and the 12 months cannot be made to "run again" by the making of a further claim. The 12 months start to run when the effects are put into storage and expires 12 months thereafter whatever may have happened in the intervening period.

(Signed) M J Goodman  
Commissioner

Date: 18 December 1984

Commissioner's File: C.S.B./526/1984  
CSBO File: 300/84  
Region: London South

SSB 526/84

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