

CSSB/130/82

(21)

IDENTIFIED DECISION
NOT TO BE FOUND OUT OF
Commissioner's Office CSSB/130/82

This decision is "starred" since it raised the following two issues:-

- (1) How specific should a claimant be when claiming items under the Single Payments Regulations having regard to what was laid down by the Tribunal of Commissioners in R(SB)42/83?
- (2) When a claimant lives alone in a house and makes a claim for essential furniture under regulation 9 of the Single Payments Regulations is he only entitled to furniture for one person, e.g. 1 dining chair and 1 easy chair?

Douglas Reith
Commissioner

DR/PK

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL TO THE COMMISSIONER FROM DECISION
OF SUPPLEMENTARY BENEFIT APPEAL TRIBUNAL
ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Supplementary Benefit Appeal Tribunal

Case No: 09/669

[ORAL HEARING]

-
1. My decision is that the decision of the supplementary benefit appeal tribunal dated 15 June 1982 is erroneous in point of law and is therefore set aside.
 2. The claimant had been in receipt of supplementary allowance for some time prior to the time under consideration in this appeal. He had been residing as a member of his mother's household, but he took over the tenancy of his mother's house in July 1981. He later made claims under the Supplementary Benefit (Single Payments) Regulations 1981. In February 1982 he requested a single payment for wallpaper and paint, linoleum and furniture. He was visited at his home in the middle of March 1982 when he requested a single payment in respect of various items including furniture. It is not entirely clear to me what specific articles were requested by the claimant during that visit, but it is stated that the narrative report of the visiting officer (which is not before me) shows that the claimant specifically claimed wallpaper and paint, sheets, blankets and pillowcases, floor coverings, curtains for his kitchen, a wardrobe, chest of drawers and dressing-table and a three-piece suite. The benefit officer apparently decided that the claimant was entitled to single payments for wallpaper and paint, sheets, blankets and pillowcases, kitchen curtains and PVC floor covering. The benefit officer according to the information now before me apparently decided that the claimant was not entitled to single payments for a wardrobe, chest of drawers, dressing-table or a three-piece suite. I would, however, mention that the papers state that the decision of the local supplementary benefit officer was merely "Refusal of a single payment for essential furniture".

The/

The claimant appealed against the supplementary benefit officer's decision, and he stated that he wished "to appeal against the decision not to allow me single payment help towards any claim for furniture".

3. At the hearing before the supplementary benefit appeal tribunal it would appear that claims were made for various items of household equipment and furniture which had not been made prior to the said hearing. In particular it would appear that the tribunal gave a decision regarding the claimant's entitlement to such additional items as a dining-table and chairs, kitchen storage, cooker, electric fires, saucepans, frying pan, crockery, cleaning implements, electric iron, towels, hot-water cylinder jacket, fire guard, curtains and fittings (other than for the kitchen) or clothing. The tribunal's decision was as follows:-

"The appeal is allowed. The Supplementary Benefit Officer is to award the appellant a single payment for the cost of a dining-table and 1 dining chair, 1 easy chair, towels and a hot water cylinder jacket. The Supplementary Benefit Officer is to award the appellant a single payment for the cost of repair of his gas cooker and electric iron on the production by the appellant of appropriate estimates."

The reasons for the tribunal's decision were as follows:-

- "(1) The Tribunal are satisfied that there is a need for a dining-table and 1 dining chair, 1 easy chair, towels and a hot water cylinder jacket and for a repair to the gas cooker and electric iron therefore a single payment is appropriate under Regulation 10(1)(b) of the Supplementary Benefit (Single Payments) Regulations 1981.
- (2) The Tribunal are satisfied that there is no need for any of the other items therefore under Regulation 3 of the Supplementary Benefit (Single Payments) Regulations 1981 a single payment cannot be made."

4. A Tribunal of Commissioners laid down in a decision dated 13 June 1983 that a supplementary benefit appeal tribunal can only give a decision regarding the particular items originally claimed by a claimant under the relevant Single Payments Regulations and have no jurisdiction to deal with further claims for items which have not been adjudicated upon by the local supplementary benefit officer. The benefit officer now concerned with the case submits that the tribunal in question were therefore not entitled to give a decision regarding the above-mentioned items which it is

maintained/

maintained had not been claimed by the claimant prior to the hearing before the said tribunal. I must accept that that submission is a valid one having regard to the above-mentioned decision reached by a Tribunal of Commissioners - R(SB)42/83. I feel, however, that it is only fair to point out that the tribunal's decision was given before the said decision R(SB)42/83 was given, and I understand that it was fairly common practice for a tribunal in a case of this sort to give a decision regarding claims for single payments in respect of items although such claims had not been previously dealt with by the local supplementary benefit officer.

5. There was properly before the tribunal the question of the refusal of single payments for a wardrobe, chest of drawers, dressing-table and a three-piece suite. Evidence was put before the tribunal to the effect that although the claimant possessed these items, they were old, dilapidated and to some degree unserviceable. I agree with the benefit officer now concerned with the case that in respect of the claims for these items the tribunal have failed to give any reason as to why, having recorded in their findings of fact the claimant's contention that these items were no longer serviceable, they then decided that there was no need for the replacement of these items. Having regard to the provisions of regulation 10(2)(b) of the said Single Payments Regulations 1981 they did not state whether or not they accepted the claimant's said contention. I also agree with the benefit officer when he states in his written submission the following:-

"In respect of the claim for a three-piece suite the tribunal have again failed to give reasons for their decision that although the suite possessed by the claimant was "in a very poor condition" (page 8) the claimant was entitled not to the cost of a replacement suite but to the cost of an easy chair. If, as is to be supposed, the reason for their decision lay in the wording of Regulation 9(a) of the Single Payments Regulations which defines "essential furniture and household equipment" as including "sufficient easy chairs for all the members of the assessment unit" then the tribunal should in my submission have stated explicitly that it was considered that as in this case the assessment unit consisted of the claimant only then one easy chair was sufficient for that assessment unit."

With regard to the above-mentioned matters my view is that the tribunal have not complied adequately with the provisions of rule 7 of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980 (as amended).

6. Having regard to what I have stated above the decision of the supplementary benefit appeal tribunal dated 15 June 1982 must be set aside, and the claimant's case must be reconsidered by another tribunal who should give their reasons regarding the claimant's entitlement to the items originally claimed by him. It is right, however, that I should express my views on the following matters which were raised before me at the oral hearing:-

(a)/

- (a) It was laid down by the Tribunal of Commissioners in decision R(SB)42/83 that when a claimant is making a claim for essential furniture and household equipment under the said Single Payments Regulations he must set forth the specific items in respect of which he wishes to claim. I am not prepared to accept the submission of the claimant's representative at the oral hearing before me that it is sufficient for a claimant just to claim for furniture. It is necessary to make a claim for each specific item. Having said that I would accept, however, that I agree with the claimant's representative that this whole issue must be dealt with in a reasonable and sensible way. I am not suggesting, nor I am sure did the Tribunal of Commissioners mean to suggest, that a claimant has to go into excessive detail in regard to his claims for items. It would be unwise and inappropriate for me to attempt to lay down any rules in that connection since every case will depend on its own particular facts and circumstances. It would, however, doubtless be sufficient for a claimant to claim for items like towels or sheets and such like items without having to specify the particular numbers of towels or sheets required. It would be open for the benefit officer or a tribunal to specify the exact numbers of towels which should be awarded.
- (b) As already explained there was not properly before the tribunal the issue of the claimant's entitlement to a dining-table or dining chairs. The tribunal, however, in the present case decided that there was a need for a dining-table and one dining chair and one easy chair. The claimant's representative argued before me that the tribunal in question should have awarded the claimant more dining chairs and easy chairs to enable the claimant to entertain relatives or friends. The said representative invited me to lay down that a claimant such as the claimant in the present case should be awarded something like 4 dining chairs and 3 easy chairs or one three-piece suite. I am not prepared to give views and directions in that connection. Under regulation 9(a) of the said Single Payments Regulations essential furniture specifies amongst other things that that means sufficient dining and easy chairs for all members of the assessment unit and a dining-table. I accept the submission of the claimant's representative that it is not necessarily appropriate to award a claimant who lives alone only one dining chair and one easy chair. I agree, however, with the contention put forward by the benefit officer's representative at the oral hearing before me that it is for the determining authorities to decide in all the circumstances the numbers of items which should be allowed in respect of such items as dining and easy chairs and that it should be left to the commonsense of those adjudicating authorities what should be awarded having regard to the particular facts and circumstances of any particular case.
- (c)/

- (c) With regard to the items which the claimant did not originally claim but which were later awarded by the tribunal he should now make a claim for these particular items. It is not for me to direct the benefit officer regarding what decision he reaches in that connection, but I have no doubt he will have regard to the conclusions which the said supplementary benefit appeal tribunal reached in that connection.

7. The claimant's appeal is allowed to the extent explained above.

(signed) Douglas Reith
Commissioner
Date: 25 June, 1984

Commissioner's File: CSSB/130/82
C.S.B.O. File: SBO 834/82
L.O: Glasgow (Parkhead) ILO
L.O. Ref. No: 1111/151609