

CWSB 52/84

Bower.

ERB/JW

Request for adjournment
a claimant is entitled as of right to an adjournment.
A tribunal has to consider a request on its merits upon the
history of case and reasons given for request.

SUPPLEMENTARY BENEFITS ACT 1976
CLAIM FOR SUPPLEMENTARY BENEFIT
DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name:

Social Security Appeal Tribunal:

Register No: W3/309

1. My decision is that the decision of the social security appeal tribunal of 4 June 1984 is erroneous in point of law and is set aside.
2. The claimant claimed a supplementary allowance. His claim was disallowed by the supplementary benefit officer (now the adjudication officer) on 12 March 1984. The claimant appealed from this decision to the appeal tribunal. When doing so he stated "I WISH TO APPEAL IMMEDIATELY TO THE APPEAL TRIBUNAL". The hearing of the appeal was fixed for 8 May 1984. However on 1 May 1984 his representative applied for an adjournment on the ground that "we are unable to arrange representation for that day" and that "we wish to take further instruction". The tribunal granted the application. The new date fixed for the hearing was 4 June 1984. However on 25 May 1984 the claimant stated on Form LT 212 (Tear-off) returned by him that "I am unable to come to the hearing. I would like another date fixed because I AM AWAITING A REPLY TO LETTERS WRITTEN TO THE POLICE IN WHICH I SOUGHT EVIDENCE RELEVANT TO MY CASE". The tribunal rejected his request that another date should be fixed and proceeded to deal with the appeal and to disallow it. Their findings were "That originally the appellant had requested an urgent appeal from the decision of the adjudicating officer given on 12.3.84, and this had been done by the Clerk to the Tribunal Mrs Davies." Their decisions were "Request for an adjournment refused and Appeal not allowed." The reasons given by them were "That the Tribunal was satisfied that at the time the appellants claim was made his capital exceeded £3000." The claimant has now appealed to the Commissioner having been granted leave to do so by me after having been refused leave by the chairman of the tribunal.
3. In his submission to the Commissioner the adjudication officer has maintained that the appeal tribunal erred in law by proceeding to deal with the appeal despite the intimation given and the request made by the claimant. He would appear to take the view that a claimant is entitled as of right to an adjournment should one be requested by him. This is certainly not so. A tribunal is required to consider a request for an adjournment on its merits, which involves having regard to the history of the case and, in particular, the grounds given for making the request. It would appear from the record of the tribunal that when refusing the request, the tribunal had regard solely to the fact that the claimant had initially asked that the appeal should be dealt with expeditiously and that steps had been taken with a view to meeting his wishes. There is no indication in the record that the tribunal gave consideration to the grounds advanced by the claimant for wanting an adjournment of the hearing. On the face of things the grounds given were not without merit. They at least gave rise to the need to

consider whether they were put forward in good faith and if they were, whether the object of having an adjournment was of relevance in relation to the appeal. In refusing the request solely for the reasons given by them and by failing to take into consideration the grounds put forward by the claimant for making his request, the tribunal in my judgment failed to act in accordance with the dictates of natural justice and accordingly erred in law. I set aside the tribunal's decision. The claimant's appeal will now have to be considered afresh by an appeal tribunal whose constitution is entirely different from that of 4 June 1984.

(Signed) E. Roderic Bowen
Commissioner
Date: 14 December 1984

Commissioner's File: C.W.S.B. 52/84
C.A.O. File: A.O. 9307/84