

*D.A. Jones to Central London Tribunal  
Claimant Mrs Susan Jones MRS P. J. G.*

RAS/4

Commissioner's File: CDLA/226/95

SOCIAL SECURITY ACTS 1975 TO 1990  
SOCIAL SECURITY ADMINISTRATION ACT 1992

CLAIM FOR DISABILITY LIVING ALLOWANCE

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. This is an appeal by the claimant against the decision of the Central London disability appeal tribunal given on 28 July 1994. The tribunal decided the claimant was entitled to the lowest rate care component of disability living allowance for three years from 26 October 1993; the mobility component appears not to have been, at least expressly, put in issue.

2. The claimant had, before his renewal claim, been awarded attendance allowance at the lower rate from 25 October 1991 to 5 April 1992 and the middle rate care component of disability living allowance from 6 April 1992 to 25 October 1993. An adjudication officer refused the renewal claim and the claimant appealed. The tribunal, as is clear from their findings of fact and reasons, considered whether the claimant might be entitled to the middle or highest rates of the care component but concluded that the conditions were not satisfied. The claimant's representative submits that the tribunal did not adequately deal with the claimant's need for supervision.

3. The current adjudication officer, who supports this appeal, points out that -

"There was evidence before the tribunal to indicate that the claimant has had falls, (page T30). It was also recorded that the claimant was forgetful, disorientated, has a propensity to disregard heat sources, can be aggressive and difficult to control and forgets to take his medication. There was also indication that the claimant has a tendency to neglect himself, particularly in relation to his diet."

There was also evidence that the claimant's mother "always" supervised him during the day and on occasions at night and that his brother "keeps watch". I agree that the tribunal did not sufficiently deal with the evidence concerning supervision and did not sufficiently explain why the supervision conditions were not satisfied. The tribunal's decision is on that account erroneous in law. I accordingly allow this appeal, set aside the

tribunal's decision and remit the case for rehearing by a differently constituted tribunal.

4. The current adjudication officer also points out that the evidence before the tribunal that the claimant was liable to fall outdoors because of his epileptic fits raises the question whether he might satisfy the conditions for the mobility component. The claimant's representative has not, I think, referred to this aspect. It should however be dealt with before the new tribunal.

(Signed) R A Sanders  
Commissioner

Date: 1 March 1996