

Commissioner's File: CFC/017/1990

FAMILY CREDIT (GENERAL) REGULATIONS 1987

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A
QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. For the reasons set out below, the decision of the social security appeal tribunal given on 22 May 1990 is not erroneous in point of law, and accordingly this appeal fails.

2. This is an appeal by the claimant, brought with the leave of the tribunal chairman, against the decision of the social security appeal tribunal of 22 May 1990.

3. On 24 August 1989 the adjudication officer decided that the claimant was entitled to family credit at the weekly rate of £19.12 for 26 weeks from 25 July 1989. The claimant appealed against this decision to the tribunal, but without success.

4. The claimant has put forward various grounds of appeal relating to how a regular monthly payment of £250 made to the claimant by her estranged husband in respect of their daughter should be dealt with. The adjudication officer now concerned has considered these grounds, and has made the following helpful submissions:-

" 2. It is not accepted that the tribunal sought to describe the payments in respect of Roberta's school fees as 'maintenance payments'. I submit that there appears to be some confusion over the specific disregarding provisions of Schedule 2 to the [Family Credit (General) Regulations]. That schedule sets out, for the purposes of regulation 24(2) what items of 'income other than earnings' are to be disregarded when determining a claim for family credit. Paragraph 13 of the Schedule (paragraph 13(3) was not in force at the claim) made provision for the disregard of '£5 of any charitable payment or of any voluntary payment made or due to be made ... at regular intervals other than a payment which is made by a person for the maintenance of ... his children".

3. In my submission the payments made in respect of the claimant's daughter are neither charitable nor voluntary since they are made under the terms of a court order ... Accordingly there is no need to consider whether they are made for her maintenance and a disregard is not appropriate."

I accept that submission.

5. The adjudication officer now concerned then goes on to make the following submission:-

" 4. The claimant's representative has also sought to draw a parallel with paragraph 15(3) of Schedule 9 to the Income Support (General) Regulations and thereby import the effect of R(SB) 6/88 to disregard the payments in respect of school fees on the ground of reasonableness ... As indicated above, the respective sub-paragraphs referred to were not in force at the relevant time. Notwithstanding the undisputed similarity between the then extant paragraph 13 of Schedule 2 to the [Family Credit (General) Regulations] and paragraph 15 of Schedule 9 to the Income Support (General) Regulations, it is my submission that R(SB) 6/88 has no relevance in view of its being dependent upon one specific provision of the Supplementary Benefit (Resources) Regulations which ceased to have effect from 10.4.88."

I also accept that submission. Nor do I think there is any merit in my saying in different words all that the adjudication officer has so admirably stated.

6. Accordingly I do not see any respect in which the tribunal erred in point of law, and I have no hesitation in dismissing this appeal.

7. For completeness I should mention that I have also considered a further submission made by the claimant on 18 February 1991 to the effect that regulation 26(3) of the Family Credit (General) Regulations 1987 should be taken into consideration. However, that particular provision only deals with the situation where a payment is made to a third party. In the present instance, the monthly payments of £250 were made to the claimant, not to a third party, and accordingly the provision in question has no application.

8. I dismiss this appeal.

(Signed) D.G. Rice
Commissioner

(Date) 1 April 1992