

CYHC

JBM/SH/11

Commissioner's File: CIS/032/1990

SOCIAL SECURITY ACT 1986

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. My decision is that the decision of the Huddersfield social security appeal tribunal dated 25 September 1989 is erroneous in point of law. Accordingly I set it aside and remit the case for rehearing to a differently constituted appeal tribunal.

2. This is an appeal by the claimant to the Commissioner with the leave of the Commissioner against the unanimous decision of the appeal tribunal in respect of the decision of the adjudication officer first involved in these appeals.

3. The facts of the case are dealt with in box 5 of the written submission of the adjudication officer first involved in these appeals to the appeal tribunal. In respect of those matters and of the submission dated 8 March 1990 the adjudication officer now involved in these appeals the claimant has had the opportunity to comment and I have the observations made on his behalf by his representatives dated 11 April 1990. No useful purpose would be served by my setting out these matters afresh here.

4. The relevant law (both statutory and otherwise) is adequately set out in the submissions of the two adjudication officers who have been involved in these appeals. Nothing is to be gained by my rehearsing that law here. I need only add that a decision of the Commissioner being Decision CSB/727/1987 has been helpfully added to the case papers at pages 67 and following.

5. In my judgment the decision of the appeal tribunal is erroneous in point of law. In my judgment the submission of the adjudication officer now involved in these appeals dated 8 March 1990 is rightly made and I adopt it as part of my judgment. There is no merit in my saying in other words what has

been adequately stated therein. I adopt as a summary of that submission that the appeal tribunal have breached regulation 25(2) of the Social Security (Adjudication) Regulations 1986 in failing to find the necessary material facts and to give adequate reasons for their decision.

6. In accordance with my jurisdiction my decision is as set out in paragraph 1 of this decision. I direct that the new tribunal to whom I remit this case in rehearing the case shall pay particular attention to all the aspects to which I have referred in paragraph 5 above of this decision. Further they shall consider carefully the exact wording of the relevant statutory provisions and make and record their findings on all the material facts and give reasons for their decision. The body to whom I remit this case is of course the fact finding body. I would add that I have given careful consideration to the claimant's representative's observations to me in particular those dated 11 March 1990. On the reasoning referred to in paragraph 5 my decision is as set out in paragraph 1 hereof.

7. Accordingly the claimant's appeal is allowed.

(Signed) J.B. Morcom
Commissioner

(Date) 12 March 1992