

Commissioner's File: CIS/057/1990

SOCIAL SECURITY ACT 1986

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. This appeal by the claimant fails. For the reasons which follow, the decision of the Social Security Appeal Tribunal ("the appeal tribunal") dated 14 October 1989 was not erroneous in law.
2. The facts of the matter are not in dispute. The claimant is a married man in his early sixties living with his wife. From its introduction on 11 April 1988, the claimant was in receipt of income support. This ceased from 14 June 1988 when it was decided that the claimant was not actively seeking employment. In April 1989, however, it was decided that he was no longer disqualified from receiving unemployment benefit and his claim was reviewed from 14 June 1988. The decision of the adjudication officer was that having regard to the claimant's unemployment benefit of £52.95 and his wife's relevant part-time earnings of £14.45, he was not entitled to a transitional addition from 14 June 1988. The claimant appealed. On 24 October 1989 the appeal tribunal affirmed the decision of the adjudication officer. The present appeal is brought with the leave of a Commissioner.
3. I think a fair reading of the claimant's grounds of appeal and submissions shows that the thrust of his challenge is that the appeal tribunal's decision was inherently unjust because it ignored the fact that the loss of benefit was caused by the decision in June 1988 to stop his unemployment benefit as a consequence of which his wife worked longer and earned more so that when the decision concerning his unemployment benefit was revised, he no longer qualified for a transitional addition to his income support.
4. The appeal tribunal's findings of fact and reasons for its

decision were shortly stated as follows:-

"Income Support (Transitional) Regs 1987 considered.
Under Reg 14(1)(e) the transitional addition is reduced if Claimant ceases to be entitled to IS because income exceeds applicable amount, by amount of such excess.

Under Reg 14(2)(b), in such cases the transitional allowance is lost if transitional allowance is reduced to NIL.

The saving provision of Reg 14(3) does not assist because the transitional addition in this case was less than £10."

5. The adjudication officer now concerned with the case does not support the claimant's appeal, although he points to what he calls a technical slip in the appeal tribunal's reasons. His written submission dated 15 May 1990 are detailed and helpful and I set out paragraphs 3 and 4 in full -

The tribunal referred in their reasoning to Transitional Regulation 14(3) in order to establish whether there would be re-entitlement to a transitional addition following the week in which unemployment benefit and accountable earnings exceeded the total of the applicable amount and transitional addition added together. This provision in fact deals with claimants formerly entitled to both income support and a transitional addition; as it is, Mr. Baldwin's applicable amount for week beginning 7.6.88 was £51.56 (page 7, paragraph 3 (2)), whereas his unemployment benefit was £52.95. There was thus no title to basic income support in that week' entitlement was to a transitional addition only, at a level sufficient to bring total accountable income to £59.04. Entitlement to both income support and a transitional addition ceased in week beginning 14.6.88 because unemployment benefit and accountable earnings totalled £67.40, a figure exceeding the protected level of £59.04.

The provision to which the tribunal should have referred was Transitional Regulation 14(4). This deals with re-entitlement to a transitional addition for persons formerly entitled to a transitional addition only. The claimant must have been formerly entitled to an addition of £10 or more, and the period of non-entitlement must not exceed 8 weeks. It would appear that non-entitlement in the claimant's case lasted for one week only (week beginning 14.6.88), but because the addition payable was less than £10, entitlement to it could not be restored.

6. In my view those submission are well-founded and I accept and adopt them. They correctly set out and apply the law and at the same time expand and explain the appeal tribunal's reasons. The reference by the appeal tribunal in the final sentence to regulation 14(3) instead of to regulation 14(4) was clearly no more than a slip, and in my judgment the appeal tribunal reached the right conclusion.

7. I can see no basis on which the decision of the appeal should be overturned and I hold that this appeal is without substance. That is not to say that I do not feel some sympathy for the claimant in the events which occurred. The fact remains, however, that on no view can the hardship which he pleads sustain by itself a point of law and thus a ground of appeal.

8. Accordingly the appeal fails and the decision of the appeal tribunal is affirmed.

(Signed) A.W.E.Wheeler
Commissioner

(Date) 2 March 1992