

C.P.A.G.

Commissioner's File: CIS/107/1990

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 Leeds social security appeal tribunal dated 22 September 1989 is not erroneous in point of law.
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 and history of the case are dealt with in paragraphs 1 to 3 inclusive of the submission dated 3 May 1990 of the adjudication officer now involved in these appeals. In respect of those matters and of the entirety of that submission the claimant has had the opportunity to comment and I have her observations to me dated 29 May 1990.
4. The relevant statutory provisions are referred to in paragraph 2 that is section 43 of the Social Security Act 1986.
5. In my judgment the decision of the appeal tribunal is not erroneous in point of law. I accept the submission of the adjudication officer now concerned in these appeals at paragraphs 4 to 7 inclusive. I would only add that the reference in paragraph 6 to the decision there referred to should be "R(SB) 16/83". In my judgment the appeal tribunal arrived at a correct decision properly applying the law and finding adequate facts giving adequate reasons. In setting out their decision they clearly state:-

"If she is aggrieved by his decision [that is the adjudication officer's decision] this appeal is to be restored for a final determination."

This is a perfectly proper course for the appeal tribunal to have taken and the case should now be restored to the appeal tribunal for their determination of the issue referred to above which they resolved and retained.

6. In accordance with my jurisdiction my decision is as set out in paragraph 1 of this decision. All that is required is the full working out of the decision of the appeal tribunal in accordance with their decision and the issue referred to in paragraph 5 should now be restored to that tribunal (as originally constituted) at as early a stage as possible so that all issues can be finally resolved.

7. Accordingly the claimant's appeal is dismissed.

(Signed) J.B. Morcom
Commissioner

(Date) 1 April 1992