

JBM/SH/10

Commissioner's File: CIS/240/1989

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 Wolverhampton social security appeal tribunal contained at page 39 and following of the case papers is not erroneous in point of law.

2. This is an appeal by the claimant to the Commissioner with the leave of the appeal tribunal chairman against the unanimous decision of the appeal tribunal confirming 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 submission of the adjudication officer first involved in these appeals. In respect of those matters and of the submission dated 5 February 1990 the claimant has had the opportunity to comment and I have the comments dated 10 March 1990. No useful purpose would be served by my setting out these matters afresh here.

4. The relevant statutory provisions are referred to in box 2 of the submission of the adjudication officer first involved in these appeals. No useful purpose is to be served by my setting out those references afresh here.

5. In my judgment the decision of the appeal tribunal is not erroneous in point of law. In the observations to me dated 10 March 1990 the claimant states that:-

"My point has always been .. that the ceiling set for Income Support in residential care homes is too low and that is still the same point I make now."

The second point the claimant makes is one of natural justice. My jurisdiction is in respect of error of law and what is an error of law is helpfully dealt with by the Commissioner in

Decision R(I) 14/75. On no other grounds can I set aside the decision of the appeal tribunal. The claimant's point that the ceiling figure for income support is too low is not one for the appeal tribunal or for the Commissioner. That figure was not one for the appeal tribunal or for the Commissioner. That figure was set by Parliament and amendment of the law is a question for Parliament and Parliament alone.

As to the issue of natural justice I need only refer to the decision of the Commissioner being Decision R(SB) 55/83.

6. In accordance with my jurisdiction my decision is as set out in paragraph 1 of this decision. The claimant is not using "natural justice" in its technical context as applicable to income support. I have no wider or discretionary powers. My jurisdiction is in respect of error of law and I cannot find such error here.

7. Accordingly the claimant's appeal is dismissed.

(Signed) J.B. Morcom
Commissioner

(Date) 7 February 1992