

JBM/SH/11

Commissioner's File: CIS/244/1990

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 Birmingham social security appeal tribunal dated 20 November 1989 is not erroneous in point of law.
2. This is an appeal by the claimant to the Commissioner with the leave of the 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 on the face of the appeal tribunal record in their findings of fact. In respect of those matters and of the entirety of the submission dated 11 June 1990 the claimant through her representatives has had the opportunity to comment and I have their observations to me dated 28 June 1990 which are "No Further Comments". No useful purpose would be served by my setting out these matters afresh here.
4. The relevant statutory provisions are regulation 17 of, and paragraphs 7 and 10 of Schedule 3, to the Income Support (General) Regulations 1987.
5. In my judgment the decision of the appeal tribunal is not erroneous in point of law. I have considered very carefully the arguments put forward on behalf of the claimant by her representatives. I have also considered the full and careful submission of the adjudication officer now involved in these appeals dated 11 June 1990. I do not think that it is necessary for me to recite the careful arguments put forward by both sides. I have to bear in mind that I can set aside a decision of an appeal tribunal only if I am satisfied that the decision of the appeal tribunal was erroneous in point of law. 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 a decision of the appeal tribunal. In my judgment the submission dated 11 June 1990 is rightly made. I can discern no error of law which would enable me to set aside the decision. There is no merit in my setting out in other words what has already been adequately dealt with in the submission dated 11 June 1990. I adopt as a summary of that submission that the decision of the appeal tribunal is supported by the recorded finding of fact and conclusions. In my judgment paragraph 10 of Schedule 3 contains two separate and distinct sets of circumstances in which the imposition of a restriction of housing costs is warranted.

6. In accordance with my jurisdiction my decision is as set out in paragraph 1 of this decision.

7. Accordingly the claimant's appeal is disallowed.

(Signed) J.B. Morcom
Commissioner

(Date) 7 February 1992