

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 23 July 1990 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 of the case are dealt with on the face of the record of the appeal tribunal. In respect of those matters and of the submission of the adjudication officer now concerned in these appeals dated 1 November 1990 the claimant has had the opportunity to comment. Nothing is to be gained 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.

5. In my judgment the decision of the appeal tribunal is not erroneous in point of law. The submission dated 1 November 1990 is rightly made and the appeal tribunal did not err in law. The claimant's daughter was a "non-dependent" within the meaning of regulation 3(1) of the Income Support (General) Regulations because she was not covered by any of the exceptions in regulation 3(2).

The daughter Julie by virtue of having to pay a personal community charge did not in my view have to make a payment in

respect of her occupation of the dwelling. Section 2(1) of the local government Finance Act 1988 clearly provides that the basis of liability for personal community charge is residence in the area of the authority (not in a particular building, or even in a building at all) this is opposed to standard community tax which is dependent on having a freehold interest in the whole of the building as to the alleged liability for gas and electricity charges. The appeal tribunal's decision is in accord with the decision of the Commissioner in CIS/299/90 in particular at paragraph 3 and the last two sentences thereof. Accordingly it follows that the claimant is subject to a deduction in respect of housing costs in respect of his daughter under para 11(1)(a) of Schedule 3 to the General Regulations.

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 dismissed.

(Signed) J.B. Morcom  
Commissioner

(Date) 8 May 1992