

JBM/SH

SOCIAL SECURITY ACTS 1975 TO 1982

CLAIM FOR INVALIDITY BENEFIT

DECISION OF THE SOCIAL SECURITY COMMISSIONER

**COMMISSIONERS DECISION
PERMANENT RECORD
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Name:

Local Tribunal:

Case No:

1. My decision is that invalidity benefit is not payable from 18 July 1983 to 25 August 1983 (both dates included) because the claimant has not proved that she was incapable of work by reason of some specific disease or bodily or mental disablement; Social Security Act 1975, sections 17(1)(a)(ii) and 15(1).
2. This appeal by the claimant to the Commissioner with the leave of the chairman of the local tribunal is against the unanimous decision of the local tribunal confirming the insurance officer's decision shown in box 1 of Form LT2.
3. The facts of the case are dealt with in paragraph 5 of Form LT2 on which the claimant's representatives have had the opportunity to comment. I do not propose to set these matters out afresh here.
4. The relevant law is adequately set out in the submission of the insurance officer first involved in these appeals. Nothing is to be gained by my rehearsing that law here.
5. I turn now to the medical evidence. I have four medical opinions to consider, those of the consultant orthopaedic surgeon Mr J Noble MB CHM FRCSE, the claimant's own doctor and the two medical officers of the Department of Health and Social Security. I turn first to that of Mr Noble who examined the claimant on 14 July 1983 who opines "the degree of pain which she professes is consistent with an inability to work. I find a little hard to ascribe so much pain to so apparently benign a lesion. I think there is some functional component here but I do not think it can all be accounted for upon that basis." Earlier in his report Mr Noble states "There is a heavily scarred area measuring approximately 6 x 2 cms a little above the level of the wrist. Its entire area is acutely and exquisitely tender to touch. The patient will not allow it to be palpated even when her attention is distracted. I believe this to be genuine physical finding although probably exaggerated". The claimant's own doctor found her incapable of work and issued sick notes covering this period stating that she should refrain from working. The two medical officers in their reports dated 25 May 1983 and 13 July 1983 respectively both opine that the claimant is not incapable of work at her occupation of winder. Mr Noble's opinion set out above is equivocal, the claimant's own doctor supports her inability to work and the two medical officers are both of the opinion that the claimant is capable of her occupation of winder. Taking the medical evidence as a whole and after careful consideration of the claimant's representatives' observations in their letter dated 16 April 1984 my decision is as set out above in paragraph 1 of this decision. I agree with the decision of the local tribunal who have had the advantage of seeing and hearing the claimant before them.

6. Accordingly the claimant's appeal is dismissed.

7. I note that following the tribunal hearing on 10 November 1983 the claimant has continued to submit medical statements signed by her general practitioner. I note also the insurance officer has disqualified benefit for the consecutive periods 28 September 1983 to 22 November 1983, 23 November 1983 to 18 January 1984 and 19 January 1984 to 21 January 1984 (all dates inclusive). I further note that on 21 December 1983 the claimant was seen by an examining medical officer of the Department of Health and Social Security who reported that she was not disabled by the scar on the right forearm and expressed the opinion that she was not incapable of work as a winder. I also note that medical boards on 18 May 1983 and 23 January 1984 advising on a claim for special hardship allowance have expressed the opinion that the claimant is incapable of work as a winder but that she is capable of remunerative work. I finally note that the same medical boards have assessed the claimant's disability in respect of her wrist injury provisionally at 4% for the period 13 July 1983 to 12 January 1984 and finally at 5% for the period 13 January 1984 to 12 January 1985. I would observe that I find nothing in this paragraph to cast doubt on my decision set out in paragraph 1 of this decision.

(Signed) J B Morcom
Commissioner

Date: 19 June 1984

Commissioner's File: CS/163/1984
C I O File: I.O. 3059/V/84
Region: North Western