
Late claim—claimant abroad since before 1946 and had no reason for thinking she had rights under the present National Insurance Scheme

Widow had emigrated to America before the provisions relating to retirement pensions had come into operation. She was 65 on 24th December 1955, but did not know she was entitled to claim a pension until she read an article in an American weekly paper. She claimed pension on 11th April 1957.

Held that she had proved good cause for failing to claim earlier. It was not reasonable to expect a person who was wholly out of touch with legislation in England, and whose qualification for a retirement pension would depend on repealed Acts to realise that there were rights to enquire about.

1. My decision is that the claimant was not disqualified for receiving a retirement pension from the 11th October 1956 to the 16th January 1957 both dates included, but that no sum can be paid to her on account of her retirement pension in respect of any period before the 11th October 1956.

2. The claimant's late husband died in 1939 at a time when she was living in England. After his death she was employed from 1941 to 1946 in England and then emigrated to the United States of America. She attained the age of 65 on the 24th December 1955, but she did not make a claim for a retirement pension until the 11th April 1957. In those circumstances no sum on account of her retirement pension can be paid to her in respect of any period more than six months before the date of her claim, having regard to the provisions of the relevant regulations. Her retirement pension has, however, only been allowed to her from and including the 17th January 1957, the first pension pay day not more than three months before the date of her claim. She has to be held to be disqualified for receiving a retirement pension in respect of the period from the 11th October 1956 until that date, unless she can prove that there was good cause for her failure to make a claim before she did.

3. In explanation of the reasons for her delay she has said that she had been living alone in America and did not know that she was entitled to make a claim, until she read an article in some American weekly paper. She points out that a person who has lived abroad does not have the same facilities as a person in England for hearing about such matters as insurance benefits in England.

4. The local insurance officer and the local tribunal, relying on the fact that it has been laid down by the Commissioner that ignorance of rights is not good cause for delay in making a claim for benefit because persons who do not know their rights under the Insurance Acts are expected to make reasonable inquiries to ascertain what they are, took the view that in the claimant's case she, having failed to make any inquiries, could not be said to have proved good cause for her delay.

5. The insurance officer now concerned with this case supports that view, but has drawn my attention to a decision of the Commissioner (R(G) 3/53) in which the Commissioner pointed out that as a person outside Great Britain was at a disadvantage in pursuing inquiries a liberal view ought to be taken of any delay which was caused by pursuing them, but the Commissioner was not prepared to accept the view in that case that the claimant had had good cause for her delay in making the claim for the period before she had commenced to make inquiries, even though she was living abroad at the time. In that case, however, the claimant had been in Great Britain until April 1950 and her confinement in respect of which her claim was made had occurred in January 1951. In the present case, the claimant had been outside Great Britain since 1946 and her retirement occurred in 1955.

6. The two cases are very different in their facts. It has to be remembered that the basic question is whether the claimant on the facts of her case has proved good cause for her delay.

7. "Good cause," as explained in Decision C.S. 371/49 (reported), means "some fact which, having regard to all the circumstances (including the claimant's state of health and the information which he had received and

that which he might have obtained) would probably have caused a reasonable person of his age and experience to act (or fail to act) as the claimant did.”

8. It is important, I think, to remember that in this case the claimant had emigrated to the United States of America as long ago as 1946, that is to say, before the provisions of the present National Insurance Scheme relating to retirement pensions had come into operation. She was wholly out of touch with legislation in England, she would not have paid any contributions under the National Insurance Acts, her qualification for a retirement pension would depend upon Acts which have now been repealed, and it does not seem to me surprising that it had not occurred to her that there were any rights to inquire about. When speaking of the requirement that an insured person should make reasonable inquiries to ascertain what his rights are, it is implicit that there were grounds for thinking that he ought to have known that there were rights for him to inquire about. It seems to me too severe a view to take to say that a woman who has been living in the United States of America since a date before contributions under the present insurance scheme would have been payable by her ought to have inquired about her rights under that scheme and that in failing to do so she has not acted reasonably in the circumstances. I feel satisfied that the claimant has proved good cause for her failure to claim her retirement pension before she did and that she should not be held to be disqualified for receiving her retirement pension in respect of the period from the 11th October 1956 to the 16th January 1957. No sum can be paid to her in respect of any date before the 11th October 1956.

9. To that extent, I allow the claimant's appeal.
