

SUPPLEMENTARY BENEFIT

Status of adjudication officer's uncorroborated evidence—single payments

The claimant made a claim for a single payment for a set of bunk beds. She submitted three estimates from town-centre suppliers, the lowest being for £119.95 and £6 for delivery. The adjudication officer stated that he had contacted a store who quoted the price of £99.90 for two sets of bunk beds, and he awarded a single payment of £100. The claimant appealed against the amount of the award to a tribunal, who expressly preferred the evidence given by the adjudication officer to that given by the claimant and confirmed his decision. The claimant then appealed to the Commissioner.

Held that:

1. the adjudication officer did not give evidence: he had only made submissions. No tribunal should accept the contested statements made by the adjudication officer's representative if he does not adduce evidence in support of them or submit himself for questioning (paragraph 5).
 2. if the adjudication officer comes to the hearing unprepared to support his statement by evidence, the tribunal must either decide the appeal on the basis that the facts are unproven or adjourn to give the officer an opportunity of proving them. If the officer gives oral evidence he should be prepared to answer relevant questions put to him by the claimant or his representative (paragraph 5).
 3. in general the adjudication officer should, if seeking to establish that an item is available at a particular store at a particular price, produce a letter from the store to that effect. In addition, someone who has seen the item should give evidence as to its quality (paragraph 6).
 4. whether or not a particular store is considered to be accessible to a claimant is a question of reasonableness. A claimant is not automatically entitled to the cost of an item of reasonable quality at the nearest or most convenient store if a substantial saving can be made by acquiring the item at another reasonably accessible store (paragraph 7).
 5. The Commissioner allowed the appeal.
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1. My decision is that the decision of the social security appeal tribunal dated 12 February 1985 is erroneous in point of law and it is set aside. The matter should be referred to another tribunal.

2. The claimant between 26 June and 16 July 1984 made claims for single payments for a number of items. If it becomes vital to know the precise dates of claim these must be found by the new tribunal. Among the items claimed were some specified tools, two bunk beds, and one mattress. The claimant was awarded in the end £100 for two bunk beds, and £60 for a mattress. She was refused a single payment for the tools. She appealed against the amount allowed for bunk beds and for the refusal of a payment for tools. The latter appeal was withdrawn when the matter came before the appeal tribunal and the sole issue before them was the matter of the bunk beds. The tribunal confirmed the adjudication officer's decision. The claimant now appeals to the Commissioner. The issue is as to the amount to be awarded.

3. Under regulation 10(3)(a) of the Supplementary Benefit (Single Payments) Regulations 1981 [SI 1981 No 1528] the amount to be awarded in respect of a bed is (except where the claimant has acquired or negotiated for a second hand item) the cost of a new item, together, under regulation 10(5), with reasonable delivery costs. And by virtue of regulation 3(3) of the same regulations this means the cost of a new item of reasonable quality. It was not in dispute that the claimant was entitled to single payments for the beds.

4. The claimant's representative at the tribunal hearing put in a written statement of his submission, which is in the case papers. In it he referred

to estimates submitted by the claimant, which are not in the case papers. The estimates for mattresses, he said, were lower than £60 actually awarded. But the lowest estimate for beds was £119.95 each and £6 for delivery. The estimates were said to have come from three town-centre suppliers two of whom had it was said been used by the Department of Health and Social Security when producing guidelines of suitable figures for awards of single payments. The adjudication officer's representative at the hearing is reported as having stated that local stores were contacted and that prices were decided. A single bed was approximately £65, with a double bed £100. In their findings the tribunal stated that the Department had ascertained that particular bunk beds were available at a particular store in the town at £50 each. The "evidence" of this was a statement in the form AT2 coupled with a copy letter from the presenting officer to the claimant dated 16 November 1984 which was in the case papers because the claimant had written her notice of appeal against the refusal of a single payment for household tools on it. In this letter the officer had written that he had that day contacted a store who quoted £99.90 for two sets of bunk beds. In the form AT2 it is stated that it was decided that a single payment should be made for two sets of bunk beds at £100, which I should have interpreted as meaning two sets of bunk beds at £100 for each set. It seems clear however that this is not what the draftsman of the form AT2 meant to say; but it leaves room for speculation about the possibility that the store in question said one thing and was taken to mean another. The tribunal expressly preferred the evidence given by the adjudication officer to that given by the claimant.

5. But the adjudication officer did not give any evidence; he only made submissions. If the statements made by the adjudication officer's representative are contested, as in this case they were, and he does not adduce evidence in support of them or submit himself for questioning no tribunal should accept such statements if unadmitted without such supporting evidence. If the adjudication officer comes to the hearing unprepared to support his statements by evidence they must either decide the appeal on the basis that the facts are unproved or adjourn to give the officer an opportunity of proving them. And where the claimant has been kept waiting they should hesitate to permit a further long wait. The officer can, if he is willing, give oral evidence but if he does he must be prepared to answer questions put to him by the claimant or his representative which bear on his evidence.

6. In the present case there were items in the statements of the presenting officer that called for further probing. I have already mentioned the possibility of confusion over whether the £99.90 was the price of one or two sets of bunk beds. I do not know whether the enquiry was made by telephone or in some other way, or whether the officer making the enquiry satisfied himself that they were of reasonable quality; and no one seems to have asked him. And there was on the face of the adjudication officer's statements a surprising excess in the price of a single bed over that of a set of bunk beds, which are in fact two single beds so constructed that one can be erected above the other. It must on the other hand be stated that the claimant had been notified about the £50 bunk beds with the name of the store three months before the hearing and she did not adduce any evidence that what was said about them was incorrect or that the beds in question were not of reasonable quality. Instead submissions were made about the inaccessibility of the store in question. Nevertheless the statements made by the adjudication officer suggest some surprising anomalies, that called for enquiry in the absence of evidence. And I am bound to set the decision aside in order that the matter may be properly investigated. In general the

adjudication officer should, if seeking to establish that an item is available at a particular store at a particular price produce a letter from the store to that effect, so that there can be no misunderstanding about what they mean; and someone who has seen the item should either orally or in writing testify to its quality.

7. I add a word about the claimant's submission about the inaccessibility of the particular store. This is all a question of reasonableness. A person not on supplementary benefit who nevertheless had to watch how he spends his money would, if he were told that something he needed could be obtained more cheaply at some remoter place, undoubtedly consider whether to go and obtain it there. He would weigh up the disadvantages of the cost and/or difficulty of getting there, and take into account the possibility of obtaining it there without actually going there. I do not think that the new tribunal should automatically accede to any submission that the claimant is entitled to the cost of an item of reasonable quality at the nearest convenient emporium if a substantial saving would be effected by acquiring it somewhere else to which she could reasonably be expected to resort even if less convenient.

8. The claimant's appeal is allowed.

(Signed) J. G. Monroe
Commissioner
