

SOCIAL SECURITY ADMINISTRATION (NORTHERN IRELAND) ACT 1992

SOCIAL SECURITY (NORTHERN IRELAND) ORDER 1998

BEREAVEMENT BENEFIT

Application by the above-named claimant for leave to appeal to a Social Security Commissioner on a question of law from a tribunal's decision dated 26 September 2023

DETERMINATION OF THE SOCIAL SECURITY COMMISSIONER

I refuse leave to appeal.

REASONS

1. I was saddened to read that the applicant lost his wife on 17 May 2019. It was her death that led to the claim for a Bereavement Benefit.
2. The applicant claimed that benefit on 21 February 2023. The claim was refused by the Department for Communities (the Department) on 18 April 2023 on the basis that it was out of time. The Appeal Tribunal (the Tribunal) sitting at Strabane on 26 March 2023 heard the applicant's appeal against that decision and refused it on the same basis. On 3 November 2023 it issued a statement explaining its reasons for that refusal.

The tribunal decision

3. The Legal Member of the Tribunal set out the date of claim, and that there was no suggestion any earlier claim had been made. She explained that the legislation provided for an absolute time limit for making a claim, that being 21 months. She concluded that, despite the applicant's heartfelt pleas that she consider the matter on a humane and compassionate level and her personal sympathy and taking into account the applicant's feelings of loss and distress, she had no power to extend the absolute time limit. In those circumstances her decision was to uphold the Department's decision to disallow the claim as out of time.

4. She refused leave to appeal on 15 November 2023. That application is renewed before me now.

Proceedings before the Commissioner

5. There is a right of appeal to the Commissioner from a decision of the Tribunal on a point of law only. The role of the Commissioner is to identify and correct any errors of law in the decision of the Tribunal and leave to appeal will be given only if there is a realistic prospect of success in establishing a potential legal error or if there is some other good reason to do so.
6. The applicant is represented by Mr Campbell, as he was before the Tribunal. He has not asked for an oral hearing. He has filed submissions in writing.
7. The Department is represented by Mr Donnan, who has responded to Mr Campbell's arguments.
8. I am able, fairly, and properly, to determine the application on the basis of their arguments without a hearing. I would observe that most applications for leave are determined on the papers, rather than following oral submissions, and it is part of my role to look for procedural or legal errors.
9. I turn to the respective positions of the parties.

The claimant's arguments

10. The important timings in this case, the date the applicant's wife died, and the date of claim, are not disputed. The initial submission in the application for leave was that the applicant wasn't aware of the existence of a bereavement benefit, thus his late claim. His representative asked that the late application be accepted in what were exceptional circumstances.
11. In a later letter Mr Campbell explains the applicant's disagreement with the claim being refused purely on the basis that it is late, and that he feels he has a valid case. He cites examples of what he considers to be a poor use of taxpayers' money, whereas the applicant's circumstances amount to a genuine case.

The submission of the Department

12. Mr Donnan relies on the time limit beyond which a claim for a Bereavement Benefit cannot be made. He answers the points made on the applicant's behalf by explaining that Mr Campbell's examples of the way other public money has been spent is not a relevant consideration in respect of this claim for a Social Security benefit covered by specific legal tests.

My conclusion

13. I accept Mr Donnan's submissions.
14. Whilst the applicant asks me to use compassion in dealing with this case, like the Tribunal I must apply the law as it has been made. There are clear time limits for claiming certain benefits, and a time beyond which a claim will not be considered.
15. The decision of the Tribunal was the only one it could have come to on the evidence before it. There is no realistic prospect of success at an appeal. Accordingly, leave is refused.



(Signed): P GRAY

DEPUTY COMMISSIONER (NI)

16 May 2024