

Department for Work and Pensions

ADJUDICATION AND CONSTITUTIONAL ISSUES BRANCH

DMG Letter 10/06

July 2006

Dear Decision Maker

Date of Claim

Introduction

This letter gives guidance following a Court of Appeal judgement¹ regarding date of claim, specifically when the claimant alleges that an earlier claim form was posted to the Department, but there is no evidence of receipt. The judgement upholds existing guidance as at DMG 02200 et seq.

1 Levy vs Secretary of State for Work and Pensions [2006] EWCA Civ 890

Background

The claimant became a widow on 23.5.00. On 4.7.00 she posted a claim form for widow's benefit. However, there was no record of this form being received at the appropriate DWP office, despite an exhaustive search.

Due to illness, the claimant made no enquiries as to what had happened to her claim. On 29.10.01, the claimant submitted a further claim for widow's benefit and was subsequently awarded benefit from 29.7.01 (three months prior to date of claim). Following unsuccessful appeals to the tribunal and Commissioner, the claimant was granted permission to appeal to the Court of Appeal.

Decision of the Court of Appeal

The Court of Appeal dismissed the claimant's appeal.

The claimant's representative proposed that the law¹ allows for claims to be treated as received **in the normal course of post** based on the fact that a claim form was properly addressed, pre-paid and posted by the claimant.

The Court of Appeal though did not accept that the fact of sending a claim form by post is an act which is relevant for the purposes of determining the date on which the claim is made or treated as having been made. In other

words legislation¹ has no application in determining the date of claim by reference to the day of posting. The date which is of relevance is the date on which the claim is made and that date is the date on which the claim is received by an appropriate office, not the date of sending the claim.

Consequently, the date of claim in this case was 29.10.01.

1 SS C&P Regs 6(1)(a); Interpretation Act 1978 s 7

Annotations

The number of this letter should be noted against DMG paragraphs 02064 and 02200.

Contacts

If you have any queries about this letter, please write to ACI Division, Room GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in DMG Letter 02/06.

Yours faithfully

John Douglas