

**DECISION OF THE SOCIAL SECURITY COMMISSIONER**

1. I allow the claimant's appeal. I set aside the decision of the Stockport appeal tribunal dated 27 August 2002 and I substitute a decision that the decision awarding incapacity credits to the claimant from 3 March 1996 is superseded without change from 14 February 2002 so that she remains entitled to the credits.

**REASONS**

2. The claimant had been accepted as being incapable of work since 1996. On 30 January 2002, she was examined by a medical practitioner for the purposes of a personal capability assessment and on 14 February 2002 a decision-maker acting on behalf of the Secretary of State carried out the assessment and decided that she was not incapable of work. Her award of incapacity credits was superseded and terminated. She appealed. On 27 August 2002, the Stockport appeal tribunal dismissed the claimant's appeal. They found that the claimant scored eight points on a "mental assessment", which was two points short of the ten required if she was to be found to be incapable of work. In the course of their decision, they considered whether the claimant satisfied the condition in paragraph 17(b) of the Schedule to the Social Security (Incapacity for Work) (General) Regulations 1995 –

"Frequently feels scared or panicky for no obvious reason."

Satisfying that condition would have given the claimant the two further points she required for her appeal to be allowed.

3. The chairman's statement of reasons for the tribunal's decision says –

"We were also told that the claimant frequently felt scared or panicky for no obvious reason. When asked about this, the claimant said that she got 'palpitations' if she had to deal with officials from the Housing Office or the Benefits Agency. When pressed further, the only other example that she could think of was her frustration on occasion with her coursework. Our view of this evidence was that the claimant was describing anxiety in situations that she knew would generate the same, rather than anxiety 'for no obvious reason'".

The claimant now appeals with the leave of the chairman of the tribunal on the ground that the tribunal misconstrued the legislation. It is submitted that the tribunal erred in taking the view that the statutory words "for no obvious reason" meant that feelings brought on by identifiable events had to be ignored.

4. The appeal is supported by the Secretary of State who helpfully draws my attention to CIB/7510/99, where the same point was considered by Mr Commissioner Pacey. Faced with an apparent conflict between two Commissioners' decisions, CSIB/2/96 and CIB/4251/97, he preferred the approach taken in the latter case, where the Commissioner said that –

“the argument that the descriptor does not apply if it is possible to identify an explanation for the claimant feeling scared and panicky overlooks the word ‘obvious’. This is an ordinary English word which has to be applied rather than interpreted. I do not consider that it covers a claimant who experiences feelings in circumstances that would not normally give rise to those feelings. It is not to me obvious that a person should be scared of being in a crowd.”

In CIB/7510/99, Mr Commissioner Pacey said –

“To my mind the ‘obvious reason’ has to be considered in the light of the identifiable physical event which prompts the panic (such as crowds or closed spaces which make the claimant panicky) as opposed to relating to the origin of the condition which manifests itself in those circumstances.”

5. The question, therefore, is whether the identifiable event that precipitates fear or panic – in this case dealing with housing officers or civil servants or coping with coursework – would provide an obvious explanation for the fear or panic to an observer who was unaware of the claimant’s mental condition. It seems to me that a cause of fear and panic may be said to be an obvious reason for the fear or panic only if that reaction is proportionate to the cause. Thus, a history of domestic violence may be an obvious reason for a woman to fear her partner. On the other hand, dealing with local government officers or civil servants may be thought not to be an obvious reason for panic giving rise to palpitations, so that, in a case such as the present, the panic may reasonably be attributed to mental disablement.

6. In this particular case, the Secretary of State now accepts that the claimant does frequently feel panicky for no obvious reason and invites me to adopt the tribunal’s findings in respect of the other descriptors and allow the claimant’s appeal and find that she is incapable of work. Looking at the background evidence, I see no reason not to accept that helpful concession and, accordingly, I give the decision set out in paragraph 1 above.

(signed) **MARK ROWLAND**  
Commissioner  
27 January 2003  
corrected 17 March 2003