

Stephen George v (1) Northern Ireland Courts and Tribunal Service and (2) Department for Social Development.

Disability discrimination case which settled in the County Court on the 1 May 2015.

Summary

The Plaintiff lost sight in his right eye in 1983 and subsequently lost the sight in his left eye in 2003. In May 2003 he was registered blind. In December 2003 he applied for and was awarded Incapacity Benefit. In May 2004 he was medically retired and in June 2004 his occupational pension commenced. The Plaintiff alleged that in June 2004 he informed Incapacity Benefit Branch that he was medically retired, that he was in receipt of employment pension and also reminded them of the need to make all communications with him accessible. He alleged that on 29 July 2013 he received an enquiry letter from Incapacity Benefit Branch dated 24 July 2013 with reference to his pension income. This letter, he advises, was also inaccessible to him. He contacted Incapacity Benefit Branch by telephone on that same date reminding them that he was blind and required correspondence in an accessible form.

In August 2013 he received an audio version of the letter dated 24 July 2013. In October 2013 he received two letters (not in an accessible format) informing him that Incapacity Benefit had been overpaid for the previous 10 years totalling an amount of £41,683.20, which would have to be repaid. On 8 November 2013 a letter was written for the Plaintiff to the Debt Centre Manager, Incapacity Benefits Branch, asking them to look at their decision again. A letter dated 29 November 2013 was received by the Plaintiff on 5 December 2013, followed the next day by an audio disc of the same letter. This letter indicated that Incapacity Benefit Branch was not changing its decision after reviewing the original decision. The Plaintiff was also informed that everything he received from the Social Security Agency or Incapacity Benefit Branch from then on would be in an audio format.

On 7 December 2013 the Plaintiff arranged for a letter to be written to the Incapacity Benefit Office to inform them that he intended to lodge an appeal against their decision. On 10 December 2013 he telephoned the Incapacity Benefit Office to ask for the appeal form in an accessible format for a blind person, as well as a form in the usual format that could be filled in to lodge an appeal. He alleged that neither of the requested items arrived. The Plaintiff enquired further about the format of the appeal and he was told it was behind closed doors and he would not have the opportunity to attend. On 14 December 2013 he received another letter with an audio disc from Incapacity Benefit Branch dated 10 December 2013 informing him that they had looked at the decision again. This letter indicated that the Plaintiff could respond within one month from the date of the letter.

Two cassette tapes arrived at the Plaintiff's home on 19 December 2013 setting out information in respect of the appeal procedure in England and Wales. The tapes also contained an audio version of Form GL24. It was alleged that the information provided

was “completely useless” to the Plaintiff as it pertained to a different jurisdiction. There was no reference to the appeal process applicable in Northern Ireland. The Plaintiff also had some difficulty sourcing a cassette player in order to listen to the tapes which transpired to be completely irrelevant in any event. He did not receive a paper appeal form. On 29 December 2013 a written appeal was submitted on behalf of the Plaintiff by a Benefits Advisor with the RNIB. On 30 December 2013 a letter was written on behalf of the Plaintiff to Incapacity Benefits Branch informing them that a formal appeal would be submitted. On 18 January 2014 the Incapacity Benefit Branch’s Appeal Submission Document arrived by post in paper form. No audio version was enclosed. The Plaintiff waited until Tuesday, 21 January 2014 but still no disc arrived. The Plaintiff managed to have some of the documentation read to him and it stipulated that any comments needed to be submitted within two weeks of the date on the letter.

On 21 January 2014 the Plaintiff telephoned Incapacity Benefit Branch to ask about the audio disc and he spoke to three people. He was told just before 12 o’clock (noon) that everyone had gone out to lunch and that someone would ring him back in the afternoon. The Plaintiff alleged that no one telephoned him that afternoon. On 25 January 2014 a nine page letter arrived from The Appeals Service Northern Ireland addressed to “Mr Stephen”, asking whether the Plaintiff wanted to have a paper determination or an oral hearing of his appeal. The Appeals Service said that his appeal had been received on 17 January 2014. It was submitted by the Benefit Advisor (RNIB) on 29 December 2013. The letter gave important details and information about the Appeal Process, however the Plaintiff alleged that no audio disc was enclosed so once again the information was completely inaccessible to the Plaintiff.

On 27 January 2014 the Plaintiff telephoned the Appeals Service and asked for an audio version of the letter. On 28 January 2014 a female assistant of the Appeals Service telephoned the Plaintiff to say that they did not do audio letters and told him to get someone to read it to him.

On 28 January 2014 the Incapacity Benefit Officer, Social Security Agency telephoned to say that an audio disc of the Incapacity Benefit Office Appeal Submission was being prepared for the Plaintiff. By 29 January 2014 the time had elapsed for comments to be made about the Appeal Submission Document and yet the Plaintiff still had not received this document in an accessible format.

On 6 February 2014 the Plaintiff received a letter from the Appeals Service giving the date of the appeal which was 21 February 2014, by that stage only two weeks away. The Plaintiff alleged that this letter was not in an accessible format.

On 10 February 2014 the Plaintiff delivered a letter to the Appeals Service by hand requesting a postponement of the Appeal. He later received a letter granting an postponement. This was not in an accessible format.

By 4 March 2014 the Plaintiff still had not received in accessible format the Incapacity Benefit Appeal Submission Document which was dated 15 January 2014. On 5 March

2014 the Incapacity Benefit Office telephoned to say that an audio version of their Appeals Submission was being made by RNIB and should arrive soon. On 7 March 2014 the Plaintiff received an audio version of the Appeals Submission but this was significantly different from the paper version which had initially been received. On 10 March 2014 the Plaintiff hand delivered his Appeal Submission Documents to the Appeal Tribunal. On 4 April 2014 the Plaintiff received a letter from the Appeals Service acknowledging receipt of his Submission Document. This letter included, for the first time, an audio disc.

The Plaintiff's subsequent appeal was successful.

The Plaintiff believed that both Defendants had failed to make reasonable adjustments in regard to their services at various stages in terms of communicating in an accessible format throughout the process.

In settling the case both Defendants agreed jointly to make a payment of £2,000 to the Plaintiff without admission of liability. The Defendants apologised to the Plaintiff in respect of the mishandling of his request for information in an accessible format. The Defendants affirmed their commitment to the principle of equality of access to facilities and services and agreed to ensure that their respective policies, practices and procedures in relation to the provision of facilities and services conform to Part III of the Disability Discrimination Act 1995. The Defendants undertook to meet with the Commission to obtain the assistance of the Commission in respect of staff training on equality related issues and in particular in relation to disability awareness.