

Summary of the judgment of the Divisional Court
(Lord Justice Singh and Mr Justice Lewis)

11 January 2019

In

R (on the application of (1) Danielle Johnson (2) Claire Woods (3) Erin Barrett and (4) Katie Stewart) v Secretary of State for Work and Pensions

1. Each of the claimants is a single parent caring for a child or children. Each claimant works and is paid monthly. Each claimant is also eligible to receive universal credit, that is a welfare benefit intended to meet their personal needs, the costs of caring for their children, housing costs and the cost of meeting other prescribed needs.
2. In this claim for judicial review, the claimants challenged the method used by the Secretary of State when calculating the amount of universal credit payable under the Universal Credit Regulations 2013. That amount is assessed by reference to a fixed monthly period, known as an assessment period. In determining the amount of universal credit payable, the Regulations require the calculation of the maximum allowance payable to a claimant. The Regulations then require that some of a claimant's earned income is deducted from the maximum allowance so that the amount of universal credit payable is accordingly reduced. Some claimants are allowed to retain a certain amount of their earned income (a figure known as the work allowance which, at the relevant time, was £192 for each assessment period) without that affecting the amount of universal credit the claimant receives. The amount of universal credit payable is then reduced by 63% of earnings above £192.
3. As each of the claimants received her salary on or around either the last working day or last banking day of the month, there were times when salaries payable in respect of two different months were paid during one monthly assessment period. The Secretary

of State claimed that, under the Regulations, she was required to treat the two months of salary as paid in that single monthly assessment period (irrespective of the fact that the salaries are referable to two months). The Secretary of State then allowed each claimant to retain only a single amount of £192 by way of the work allowance from the combined two months' salary before calculating the amount by which universal credit is to be reduced by a proportion (63%) of their earned income. Had the defendant attributed each of the two months' salary to different assessment periods, each claimant would have been able to retain £192 of each month's salary before her universal credit was reduced.

4. The Divisional Court concluded that the Secretary of State had wrongly interpreted the relevant regulations. In particular, the Secretary of State was wrong to treat the combined salaries for two different months as the amount of earned income received in respect of a single monthly assessment period simply because both salaries happened to have been received within that assessment period because of the dates on which they were paid. The Secretary of State was wrong to allow each of the claimants to retain only one amount of £192 from the combined amount of the two months' salaries. The Regulations, properly interpreted, required the amount of universal credit payable "in respect of an assessment period" to be calculated "on the basis of" the amounts received in an assessment period. While the calculation will be based upon the actual amounts received, there may need to be an adjustment where the actual amounts received in an assessment period do not, in fact, reflect the earned income payable in respect of that period. Here, the two monthly salaries were paid in respect of different monthly assessment periods and the calculation of the universal credit payable to the claimants had to reflect that fact.

5. The Court will hold a further hearing, on 26th February 2019, to consider consequential matters, including the form of its order, costs and any application for permission to appeal.

NOTE

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: <https://www.judiciary.uk/judgments>