

ENGLAND AND WALES / JUDGMENT

DKV v Secretary of State for Work and Pensions

COURT
IN THE UPPER TRIBUNAL

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IN THE UPPER TRIBUNAL
(ADMINISTRATIVE APPEALS CHAMBER)

Appeal No. UA-2025-000924-PIP

THE UPPER TRIBUNAL HAS ORDERED that, without the permission of the Tribunal, no one shall publish or reveal the name or address of the Appellant in these proceedings or any information that would be likely to lead to the identification of them or any member of their family in connection with these proceedings. Any breach of this order is liable to be treated and punished as a contempt of court.

Appellant

Respondent

Between: DKV
and
Secretary of State for Work and Pensions
Before: Upper Tribunal Judge Jacobs
Decided on 06 May 2026 without a hearing.

Representation:

Claimant: S M Clarke, Unite Community (Volunteer)
Secretary of State: Miss L Howard, DMA Leeds

On appeal from:

Tribunal:

Reference:

Decision date:

Hearing: First-tier Tribunal (Social Entitlement Chamber)
SC147/24/00389 1709-3872-1679-2153
31 January 2025
Sheffield
Summary: inadequate reasons
DECISION OF UPPER TRIBUNAL
As the decision of the First-tier Tribunal involved the making of an error in point of law, it is SET ASIDE under section 12(2)(a) and (b)(i) of the Tribunals, Courts and
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Enforcement Act 2007 and the case is REMITTED to the tribunal for rehearing by a differently constituted panel.

DIRECTIONS:

A.
B.
C.
D.
E.
The tribunal must undertake a complete reconsideration of the issues that are raised by the appeal and, subject to the tribunal's discretion under section 12(8) (a) of the Social Security Act 1998, any other issues that merit consideration. The reconsideration must be undertaken in accordance with KK v Secretary of State for Work and Pensions [2015] UKUT 417 (AAC).
In particular, the tribunal must investigate and decide the claimant's entitlement to a personal independence payment for the inclusive period from 27 March 2023 to 24 November 2024.
In doing so, the tribunal must not take account of circumstances that were not obtaining at the time of the claim: see section 12(8)(b) of the Social Security Act 1998. Later evidence is admissible, provided that it relates to the time of the decision: R(DLA) 2 and 3/01.
The tribunal has no jurisdiction after 24 November 2024, because the claimant received an award of personal independence payment with effect from 25 November 2024.

REASONS FOR DECISION The claimant appealed against the decision of the First-tier Tribunal. The 1. Secretary of State's representative has supported the appeal, saying that there was an error of law in the tribunal's decision and inviting the Upper Tribunal to send the case back to the tribunal for rehearing. The claimant has agreed. Given that agreement, all I need do is to say why I have set aside the tribunal's decision and explain what is meant by a rehearing. It is not necessary to set out the history of the case or to analyse the evidence and arguments in detail. The claimant has asked for an oral hearing before the Upper Tribunal. From the 2. context, however, he appears to be asking to attend the rehearing before the First- tier Tribunal, which he will be entitled to do. A. Why I have set the First-tier Tribunal's decision aside I have set the tribunal's decision aside on the ground I identified in my grant of 3. permission to appeal.

6. With regard to activity 4 (washing and bathing), the tribunal scored you 2 points for descriptor 4b. That descriptor applies to washing and bathing. The tribunal referred to your evidence at paragraph 21. That relates to getting in and out of a bath. Descriptor 4e would be appropriate for that and carries 3 points. The tribunal did not explain why it did not consider that descriptor. 7. So, on your grounds of appeal, there is a realistic prospect of success on activity 4. An additional point would increase your score to 8 points, which would qualify for the daily living component at the standard rate. DKV v SSWP (PIP) UA-2025-000924-PIP I do not need to deal with any other error in point of law that the tribunal may 4. have made. Any that were made will be subsumed by the rehearing. B. The Secretary of State's support for the appeal 5. I am grateful to Miss L Howard for her submission on behalf of the Secretary of State. It should be before the First-tier Tribunal at the rehearing. If it is not included in the papers for that hearing, the claimant has been sent a copy and will be able to provide it to the tribunal. C. What will happen at the rehearing For the benefit of the claimant, this is the effect of the decision in KK to which I 6. have referred in my directions. 7. The tribunal must follow the directions I have given. The rehearing will not be limited to the grounds on which I have set aside the 8. tribunal's decision. The tribunal will consider all aspects of the case, both fact and law, entirely afresh. Nor will the tribunal be limited to the evidence and submissions that were before 9. the tribunal at the previous hearing. It will decide the case on the basis of the relevant evidence and submissions made at the rehearing.
10. The tribunal must come to its own conclusions on the issues of both fact and law that it considers. Nothing in my decision or in my reasons for it is an indication of the likely outcome of the rehearing. Nor will the tribunal be bound by any conclusions of fact or law reached by the tribunal in the decision that I have set aside. Authorised for issue on 06 May 2026 Edward Jacobs Upper Tribunal Judge 3

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Prepared on 24 October 2026 · Esheria