

NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007 (AS AMENDED)

CASE REFERENCE NUMBER: NIVT 6/22

S S – APPELLANT

AND

DEPARTMENT OF FINANCE – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Francis Farrelly,

Members: Mrs Noreen Wright, Mr Brian Reid

Date of review hearing: 30 April 2024

For convenience we attach a copy of the NIV Tribunal's decision in respect of the hearing on 10 October 2022.

1. The appellant sought rate relief on the basis of changes made to his home to accommodate his disability. He elected for an appeal on the papers.
2. We considered the appeal on the papers in accordance with his wishes. The respondent accepted he had a substantial and permanent disability. This is consistent with the award of disability living allowance and then pips of the daily living component and the mobility component at the enhanced rates.
3. It was indicated that the changes to his home included provision for easier access to the front and rear, as well as lowering the kitchen worktop and light switches and so forth because of his short stature. The same applied in respect of the bathroom with a walk-in shower being installed.
4. The Rates (Northern Ireland) Order 1977 at section 31A provides for rebates. This includes adaptations to meet a person's disability. However, it is specific as to the changes, referred to in the appeal submission as 'qualifying facilities'. They include an additional kitchen or bathroom or lavatory.
5. His application to the respondent had been refused on the basis the changes were not qualifying facilities.

6. At the hearing, we considered the papers provided and were influenced in particular by the decision of Mary Quinn NIVT 12/16 and [2019] NICA 41 which considered the notion of facilities in the legislation.
7. We were in agreement with the respondent that the changes referred to did not constitute relevant facilities. It was clear that the changes were done to assist the appellant because of his disability. However, the legislation was quite specific as to what would be covered. Consequently, we dismissed the appeal.
8. After the decision had been sent to the appellant an email was received from Mr Jim Shannon MP on behalf of the appellant. Mr Shannon indicated that the appellant wanted to appeal our decision further. Whilst the letter indicated disagreement with the outcome it was not clear what way the appellant wanted to progress this. The tribunal office made contact with Mr Shannon enquiring as to whether the appellant was seeking a review of the decision of the Tribunal under the procedural rules or whether he was seeking leave to appeal to the Lands Tribunal.
9. The matter was referred to the legally qualified member who directed a letter be sent from the tribunal office to Mr Shannon. This was done on 24 August 2023. It indicated the time limits for reviews and the grounds upon which a review can take place. Mr Shannon in an email indicated a review was being sought. He subsequently advised the grounds upon which the review was sought. He said that the appellant felt he was being discriminated against and that the list of approved adaptations should not be applied stringently because of his needs. The delay in making application was due to delay on the part of the appellant in contacting a representative.
10. The tribunal was agreeable to the decision being listed for a review and the office contacted the appellant to see if he wanted to be present. On 19 April 2024 his representative indicated his constituent would like to attend and a parking spot near the venue would assist, as would disabled access. The tribunal office replied indicating they would arrange a parking space.
11. Rule 21 of the valuation Tribunal Rules (NI)2007 deals with reviews. It is important to bear in mind that a review is different from an appeal. In a review situation the decision made by the tribunal is looked at again to see if something has occurred which renders it unfair or to correct errors. It is primarily directed towards procedural irregularities rather than the

substantive merits of the decision. It covers the situation, for instance, of an appeal dealt with on the papers by mistake when the appellant who had requested a face-to-face hearing. Rule 21 states:

12.

21—(1) If, on the application of a party or on its own initiative, the Valuation Tribunal is satisfied that—

(a) its decision was wrong because of an error on the part of the Valuation Tribunal or its staff; or

(b) a party, who was entitled to be heard at a hearing but failed to be present or represented, had a good reason for failing to be present or represented; or

(c) new evidence, to which the decision relates, has become available since the conclusion of the proceedings and its existence could not reasonably have been known or foreseen before then; or

(d) otherwise the interests of justice require,

the Valuation Tribunal may review the relevant decision.

(2) An application for the purposes of paragraph (1)—

(a) may be made immediately following the decision at a hearing; or

(b) if not so made, shall be delivered to the Secretary within 14 days of receipt by the party making the application of written notice of the decision,

and shall be in writing stating the reasons in full.

(3) Where the Valuation Tribunal proposes to review a decision on its own initiative, the Secretary shall send notice of that proposal to the parties.

(4) The parties shall have an opportunity to be heard on any application or proposal for review under this rule.

(5) The relevant decision shall be reviewed by the tribunal which made the decision or, where it is not practicable for it to be reviewed by that tribunal, by a different tribunal.

(6) Following review of a decision the Valuation Tribunal may—

(a) vary or set aside the decision;

(b) vary or revoke any order made in consequence of that decision; and

(c) where a decision is set aside, may order a rehearing before either the same or a different tribunal.

(7) On the variation or setting aside of a decision, or the variation or revocation of an order of the Valuation Tribunal, the Secretary shall immediately

make such correction as may be necessary in the register and shall send a copy of the entry so corrected to the parties.

(8) In this rule “decision” means a decision which is a final determination of the proceedings.

13. The application was late but we decided to extend the time in fairness to the appellant. We were influenced by the fact that he was unrepresented at that stage and subsequently sought advice from Mr Shannon.
14. It is worth noting that Rule 26(5) requires the review be undertaken by the tribunal which made the decision so far as is practicable. This provision places a considerable burden upon the administrative staff in arranging a hearing with the original members. They are not employed on a full-time basis with the tribunal and have other commitments. It can take considerable coordination to arrange a mutually convenient date.
15. The appeal was listed for 2 pm on 30 April 2024 with the same three members. It was disappointing then to find that neither the appellant nor the respondent were in attendance and gave no explanation. No notification had been given to the tribunal in advance of any issues.
16. We were satisfied the appellant and his representative were aware of the hearing. The tribunal waited some time and then decided to proceed. This was the only case put on the list that afternoon.
17. The appellant had not provided any written submission in advance of his appeal. We were satisfied the appellant was originally given the opportunity to have an oral hearing or a determination on the papers. He opted for the latter. In such a situation therefore he would not be attending. We were satisfied that the respondent’s papers were sent out to the appellant so he knew what it was he had to respond to. We have received no new evidence. We could see no reason why the outcome should be changed. Consequently, we do not vary or set aside the earlier decision .

Chairman: *Mr Francis Farrelly*

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 17th June 2024