

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

CASE REFERENCE NUMBER: NIVT 18/24E

AB – APPELLANT

AND

DEPARTMENT OF FINANCE – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Michael Flanigan LLB

Members: Robert McCann and Andrew Tough

Date of hearing: 4th March 2025

DECISION

The unanimous decision of the Tribunal is that this appeal is **Dismissed**

REASONS

Introduction

This is a reference under Article 12B of the Rates (NI) Order 1977 (as amended) (the 1977 Order).

The Law

The statutory provisions are to be found in the 1977 Order. Article 31A(12B) of the 1977 Order was inserted by Article 17(8) of the Rates (Amendment) (NI) Order 2006 (the 2006 Order). Article 31A(12B) enables a person to appeal to the Tribunal against the result of a review by the Department (the respondent in this appeal) of a decision that a person is not entitled to a rate rebate for a property with a special facility for a person with a disability. This is the Disabled Persons Allowance (DPA).

The Evidence

This was an appeal under Article 31A of the Rates (Northern Ireland) Order 1977 against the Department decision to back date the appellants entitlement to DPA to the start of the rating year 1st April 2024. The appellant had submitted that the DPA should have been back dated to 2020 which was when her claim for Personal Independence Payment (PIP) had been backdated to. The parties

attended and relied upon oral evidence together with written submissions and the Tribunal is grateful to both sides for their submissions. In keeping with the established practice, the Tribunal has anonymised references to the appellant who is referred to as “AB” above and has removed any identifying details for the hereditament under consideration.

The Tribunal’s Decision

The law in relation to these cases is contained in Article 31A of the Rates (NI) Order 1977 (as amended) which states that (subject to certain paragraphs) the Department shall grant a rebate to a hereditament to which this article applies.

Art 31A(2) is pertinent to this and states:

“This article applies to

(a) a hereditament in which there is a facility which is required for meeting the needs of a person who resides in the hereditament and has a disability, including a facility of either of the following descriptions-

- (i) A room, other than a kitchen, bathroom or lavatory, which is wholly or mainly used (whether for providing therapy for other purposes) by such a person; or
- (ii) An additional kitchen, bathroom or lavatory...”

Article 31A(12B) of the Rates (Amendment) (NI) Order 2006 (“the 2006 Order”) enables a person to appeal to the Northern Ireland Valuation Tribunal against the result of a review by the Department of a decision. Of particular relevance to this appeal are the provisions of Article 31A paragraph 8 which deals with the grant of a rebate of DPA and states as follows:

31A(8) No rebate shall be granted,

(a) for any period before 1st April 1979, or

(b) except in such circumstances and to such extent as the Department may determine, for any period before the beginning of the year in which the application is made.

The Department in this case granted the appellant DPA from the start of the rates year in which she applied i.e. from 1st April 2024. It has a discretion to back date the rebate further in such circumstances and to such extent as the Department may determine. This is a broadly worded discretion, and the Department has decided not to exercise the discretion in favour of the appellant. When dealing with a discretionary power the Department is entitled to issue guidelines as to how that discretion should be exercised.

To date the Department guidance issued states that the discretion should be exercised in two types of cases:

- (a) When the circumstances personal to the applicant are such that it was unreasonable to expect an application to be submitted within the relevant rating year.
- (b) That the applicant was not capable of applying during the relevant rating year.

The appellant had applied for DPA by an application dated 10th April 2024. Her evidence was that she had applied for DPA once her application for PIP had been awarded. The award of PIP had been back dated to 2020 when she had first applied for it. The appellant appears to have laboured under the impression that she had to have proof of a disability related benefit before she could apply for DPA. As a result, the appellant had applied for PIP and when this was refused, she appealed that decision and then waited on the outcome of her appeal before pursuing the application for DPA.

It is not entirely clear where this misapprehension came from however the appellant did advise the Tribunal that she had worked her entire working life and was unfamiliar with the benefits system. The application form makes it clear that disability can be evidenced by medical evidence from a GP or consultant. Proof of a relevant benefit such as PIP could be submitted as evidence but it is not a criterion that an applicant must be in receipt of a particular benefit to obtain DPA.

The Tribunal accepted that the Department does make lot of information available to the public about rates exemptions and help with rates. More information is available from online including the Departments own web site. Such information to the public should be kept under review and where necessary revisited and improved.

The circumstances set out by the appellant are that she was initially unaware of the DPA and then subsequently failing to appreciate that she could apply for DPA before she began to receive PIP. The Tribunal notes that every annual rates demand contains a leaflet with advice on obtaining help with rates and that there are many sources of advice available free of charge to the public on these issues including Citizens Advice Centres, local councillors and MLA's.

The Tribunal was not unsympathetic to the appellants case but ultimately it was her responsibility to seek information and advice on her entitlement to the rates rebate and to submit the application when her circumstances justified it. There were no actions on the part of the Department which prevented the appellant from submitting her application earlier and the appellant did not suggest that she was at anytime incapable of making an earlier application. The Tribunal was unable to accept

that the appellants circumstances were sufficient for the Tribunal to exercise the discretion to grant this appeal.

Appeal refused.

Chairman: Michael Flanigan

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 31/03/2025