

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: 39/13

BETWEEN:

REGINALD EMERSON

Appellant:

-and-

THE COMMISSIONER OF VALUATION

Respondent:

NORTHERN IRELAND VALUATION TRIBUNAL
CHAIRMAN: MR KEITH GIBSON B.L.
MEMBERS: MR BRIAN SPARKES FRICS; MR ALAN MARTIN

INTRODUCTION

1. The Appellant's appeal was heard at Bedford House, Bedford Street, Belfast on the 25th March 2015. The appeal concerned and related to property situate at 15 Drumadd Road, Drumadd, Armagh, BT61 9EA. Mr Emerson appeared on his own behalf along with Mr William Irwin MLA. Ms McCullagh, along with Mr Grady, appeared on behalf of the Respondent.

THE APPELLANT'S APPEAL

2. The subject premises is a semi-detached house built in or around 1910 with a GEA of 164m² and a garage of some 22m². It is accepted by all parties that the property is in a poor state of repair both externally and internally. There is no heating system in the property and whilst mains water, electricity and sewage are available, the property itself is in an unsatisfactory state. The property was originally entered in the Capital Value List with an assessment of £115,000, however, on or about the 23rd October 2013 the Appellant appealed this valuation to the Commissioner of Valuation and, on appeal, the valuation of the property was amended downwards by some 40% from £115,000 to £67,500 to reflect the poor external repair of the property, including, but not limited to, the poor condition of the basement and the chimney. The property has been vacant for some 12 years and in that time has become more and more dilapidated. The certificate relating to capital value was issued on the 20th November 2013 and the appeal was received by the Tribunal on the 13th January 2014. The appeal therefore is clearly outwith the time for an appeal, being 28 days. The explanation given for late notice of

the appeal was that during the time for appeal the Appellant was making representations to LPS through Mr William Irwin and that he had furthermore and in addition completed an exclusion form for empty property rates on the basis that the property was unliveable and should be condemned by public health.

3. The jurisdiction of LPS in relation to empty properties is separate and distinct from the subject matter of this appeal, namely the assessment of the capital value of the property. The jurisdiction in relation to an application for exclusion is contained in the Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011. It did not form the subject of this appeal, although it is perhaps understandable, given that Land and Property Services are the adjudicating authority, that the Appellant believed there was some cross-jurisdictional discretion. The period afforded for an appeal is 28 days pursuant to the relevant provisions of the Rates (Appeals) Regulations 2007. The Tribunal has a discretion pursuant to Article 9(7) of the 2007 Rules and the explanation for the failure to lodge within time is as set out above. In the circumstances, given the fact that no prejudice has been occasioned to the Respondent (of which the Tribunal is aware) and that the Appeal Notice was only a short while outwith the stipulated time period, the Tribunal is minded to exercise, and does exercise, its discretion to allow the appeal to be admitted.

GROUND'S FOR APPEAL – THE APPELLANT'S SUBMISSIONS

4. The Appellant's grounds for appeal relate to the poor internal condition of the property, which the Appellant claims has not been properly assessed by the Respondent. In support of the Appellant's submissions, the Appellant relies upon:
 - a) The evidence of Mr Irwin in correspondence dated the 9th October 2014.
 - b) An Engineer's report from Mr Michéal Finnegan dated the 4th October 2014.
 - c) The refusal of an application for a Certificate of Fitness by Armagh City and District Council pursuant to the Private Tenancies (Northern Ireland) Order 2006 indicating that the dwelling is unfit for human habitation.

THE RESPONDENT'S SUBMISSIONS

5. The Respondent, in its submissions both in writing and orally, are to the effect that Schedule 12, Paragraph 12(1) of the Rates (Northern Ireland) Order 1977 makes clear that the valuer in an assumption must assume an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality. In support of same, the Respondent points to the decision in England and Wales of **Wilson –v- Coll** [2011] EWHC 2824. The decision of Mr Justice Singh and the previous decisions of this Tribunal

are of persuasive, if not binding authority, and the bar which is set is a fairly high one for any Respondent, for he or she must prove that the property is truly derelict. Implicit within the notion of a truly derelict property is a property which will be extremely difficult, if not impossible, to return to its status as a dwelling house.

6. The Tribunal as a matter of fact finds that this is not the case in this particular instance, for photographs of the property indicate that, whilst in poor repair, it is still recognisable as a dwelling house and whilst there are issues with, inter alia, damp, the structural integrity of floors, the intrusion of vegetation and issues over the structural integrity of the property, the property still exists as a recognisable hereditament.

COMPARABLES

7. It was accepted by both parties that finding relevant comparables was extremely difficult. The comparables which were produced by the Respondent did not sit easily with the subject property being either comparables which were constructed at a different time, of a different type of construction or of a different property type. Despite this however of the comparables produced Comparable B (8 Drumadd Road), a property built in 1910, located directly opposite the subject property of similar size was most relevant. It was however smaller and detached, and in much better condition, with the appearance of being occupied. It has a Capital Valuation of £120,000.

DECISION

8. For the purposes of assessment the relevant capital valuation date is the 1st April 2005. Paragraph 7(2) of the Order makes clear that, in estimating the capital value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the capital values in that valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value has been revised ("the tone of the list").
9. The Respondent has clearly taken into account the below average external condition of the property but it was the internal condition in respect of which the Appellant paid particular attention. Unfortunately the Tribunal is bound, as is the Respondent, to consider the property to be of average internal repair. The fact that the internal state of the property may not be attractive to a homeowner or a potential purchaser is neither here nor there; primarily the onus and duty is on the Appellant to show that the capital valuation is incorrect and in this particular instance the Tribunal cannot accept that the Appellant has satisfied this burden of proof pursuant to Article 54(3) of the Rates (Northern Ireland) Order 1977.

Keith Gibson Chair
Northern Ireland Valuation Tribunal
Date 13th May 2015