

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: NIVT 45/15

CHRISTY FABRO & DEREK POOLE - APPELLANTS

AND

COMMISSIONER OF VALUATION FOR NI - RESPONDENT

Northern Ireland Valuation Tribunal

Chair: Sarah Ramsey

Members: Tim Hopkins (Valuer) and Robert McCann (Lay)

REVIEW HEARING

1. On the 19th January 2017 this Tribunal issued a decision in respect of the Appellant's appeal against the assessment of the capital value of his property, following an oral hearing on the 11 January 2017. The appeal was dismissed and the Appellant notified of the decision. On the 27th January 2017 (Received 31st January 2017) the Appellant applied for leave to review the decision pursuant to Rule 21 of the Valuation Tribunal Rules (Northern Ireland) 2007. In accordance with Rule 21(4) the parties have an opportunity to be heard on any application for review pursuant to Rule 21.
2. The Appellant's application for review was heard on the 27th July 2017 by way of oral hearing. As with the previous Tribunal, the Appellant represented himself and the Respondent did not attend, although they did submit a written response to the Appellant's comments emphasising Land and Property services only accepted during the hearing that the Appellant was not informed *in writing* (emphasis added) that the suspension was temporary and secondly that it was only the decision issued by the District Valuer to remove the temporary allowance and re-instating the subject property to the valuation list that is under appeal.
3. In support of the Appellant's application for review, the Appellant submitted a letter to the Tribunal, dated the 27th January 2017. In addition, the Appellant made oral representations which added to the representations included in the written submissions.
4. The Appellant sought a review on the basis that:

- (i) At no stage was he informed by Land and Property Services that the removal of his property from the Valuation List from 30th July 2014 to 16th December 2015 was a temporary suspension. The Lands and Tribunal Service did not inform him that the suspension was temporary and accepted this during the course of the hearing;
 - (ii) The removal of the subject property from the Valuation List came about as a result of an External Inspection on the 16th December 2015. On that date the premises were in exactly the same condition as they were during the inspection on the 6th May 2015, that same decision should have been made following the external inspection on the 16th December 2015.
5. In addition to the written submissions above the Appellant relied upon another ground, namely that:
- (iii) He owned and developed a number of houses and in his experience the Belfast Office of Land and Property Services (the instant case concerned the Ballymena Office) were content to allow properties under development be removed from the list until the developer informed the office that renovations on the property had been completed.

THE LAW

6. Rule 21 provides;

Review

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.

7. The power or ability to request a review is different from the appeal to the Lands Tribunal, pursuant to Article 54(a) of the Rates (NI) Order 1977, as amended. Of the four grounds (a) to (d) referred to in Rule 21, the ground contained in paragraph (b) was acknowledged to be irrelevant. The Appellant in his notice seeking a review maintained that he was entitled to a review because;
- (i) It was required in the interests of justice.

8. Despite the seeming restriction placed on the Appellant to just one of the 4 grounds available, the Tribunal considered the Appellant's review in the context of Rule 21 as a whole.

Rule 21 (1)(a)

9. The review procedure under this head is designed to correct obvious and fundamental flaws which arose because of human error, errors which when pointed out, are self-evident, patent and objectively, clearly erroneous. Applying such a test to each of the grounds put forward by the Appellant seratim it is obvious that none of the grounds referred to above come within the heading of an obvious and manifest error.

Rule 21 (1)(c)

10. The only item of information which could possibly pertain to Rule 21(1)(c) was the allegation which the Appellant contends was the differing procedures operated by Belfast and Ballymena district offices. This aspect fails because it could not constitute new evidence as it had been known to the Appellant at the time of the initial hearing. In addition the condition of the property during external inspection on 16th December was also known to the Appellant at the date of the initial hearing.

Rule 21(1)(d)

11. Whilst the discretion of the Tribunal to order a review in the interests of justice is wide, it cannot be boundless and must take into account a number of factors, which include not only the interests of the Appellant, but also the interests of the Respondent. In this particular instance, none of the reasons for a review put forward by the Appellant stand up to the interests of justice test.
12. Whilst the Appellant was correct in his assertion that Lands and Tribunal Service did not inform him that the removal was temporary, it is inconceivable that the Appellant believed the property would remain suspended from the list for an indefinite period of time. In addition, the Appellant had accepted in the initial hearing that he had received a telephone voicemail from the "Rates Office" asking him to contact them.
13. Whilst the Appellant is aggrieved by the decision of this Tribunal, feels the decision of this Tribunal was wrong and that the Tribunal failed to properly take into account his grounds for appeal, those are not matters which the Tribunal considers constitute sufficient grounds to satisfy relief under the 'interests of justice' test.

CONCLUSION

14. Having reviewed its previous decision, the Appellant has not made out any of the grounds justifying relief pursuant to Rule 21 and this Tribunal's original decision remains unaffected.

Ms Sarah Ramsey – Chair

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to all parties: 1 November 2017