

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 11/20

Eamon Flanagan – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Francis Farrelly

Members: Brian Reid FRICS and Garry McKenna

Date of hearing: 10th October 2022

DECISION

The unanimous decision of the tribunal is that the Decision of the Commissioner of Valuation for Northern Ireland is upheld, and the appellant's appeal is Dismissed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").

The Law

2. The statutory provisions are to be found in the 1977 Order as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). The tribunal does not intend in this decision to set out the statutory provisions of article 8 of the 2006 Order, which amended article 39 of the 1977 Order as regards the basis of valuation, as these provisions have been fully set out in earlier decisions of this tribunal. All relevant statutory provisions were fully considered by the tribunal in arriving at its decision in this matter.

The Tribunal's Decision

Grounds to review the tribunal's decision have not been established. Consequently, that decision shall stand.

3. Mr Flanagan, the appellant, had asked the tribunal to review its decision of 14 February 2022. That decision dismissed the appellant's appeal.
4. Rule 21(of the Valuation Tribunal Rules (Northern Ireland) 2007 deals with reviews. The relevant part states:

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.

(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.

5. Our first observation is that the appellant was notified of the hearing listed on 28 September 2021. He chose to have his appeal decided in his absence. The tribunal decision was then registered on 14 February 2022. Thereafter, the appellant contacted the tribunal office at various stages.
6. He sent a letter on 18 February 2022 where he states he would like to have been present at the hearing. He queried whether he had said he wanted the appeal to proceed in his absence. He indicates he would like to have attended the appeal. A member of staff in the tribunal office in a letter dated 15 March 2022 advised the appellant that in his application dated 16 November 2020 he had indicated he wanted the matter dealt with on the papers. Furthermore, the office had sent the appellant an email on 23 August 2021 advising him of the hearing date and that the appeal was being dealt with on the papers in accordance with his wishes. He was asked to provide reasons why, if he wanted to attend or be represented, he had not advised the office. He did not provide an answer.
7. The Department were contacted by the tribunal office for its views. It was indicated they did not wish to comment.
8. The appellant wrote to the tribunal office in a letter dated 31 March 2021. He refers to matters relating to the merits of his appeal and indicates he did not understand the nature of the proceedings.
9. The tribunal office wrote to the appellant on 31 May 2022 indicating his correspondence was being treated as a request for a review notwithstanding his failure to comply with the procedural rules about such a request. He was invited to make further comment and was advised in the absence of any further contact the matter would be listed again.

10. He responded on 14 June 2022 referring to his earlier letter and indicated he did not have the energy to proceed to a further hearing.
11. He was advised of the review hearing and invited to attend. He made contact again by email on 2 September 2022 indicating he was not up to the effort of attending the hearing. He has suggested a compromise settlement, but the tribunal office advised him it is an independent body and cannot engage in the types of discussion he described.
12. The application remained in the list and there was no further contact from the appellant.
13. The tribunal finds that grounds for review have not been established. He was properly notified of the hearing. All the documents you wanted to rely on were before the tribunal. He had not arranged representation which was his choice. There were no procedural irregularities. The appellant has not provided a basis which would justify reconsideration. There is no other basis for a reconsideration on the material before the tribunal.

Chairman: Francis J Farrelly

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 1/3/23.