

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 21/19

MR & MRS GOODMAN – APPELLANTS

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

NORTHERN IRELAND VALUATION TRIBUNAL

CHAIRMAN: FRANCIS J FARRELLY ESQ

MEMBERS: MS NOREEN WRIGHT (LAY)
AND
TIMOTHY HOPKINS ESQ (VALUER)

DATE OF HEARING: 11TH APRIL 2022

DECISION

The unanimous decision of the tribunal is that its decision is not varied or set aside further to the appellants request for a review.

REASONS

Introduction

1. The appellant's home at 117 Loughorne Road, Newry was a new build. The respondent issued a completion notice. This valued the property at £265,000 and that it was liable to rates effective on 26 May 2015. The appellants state they did not receive this as it had been sent to their old address and they only became aware of the valuation when they received a rates bill plus a bill for arrears in June 2017. They then made contact with the respondent.
2. There is a letter Mr Goodman dated 14 February 2018 to Land and Property Services disputing the valuation. He stated that the valuation relates to the property having two usable floors whereas the top story was only accessible via a loft hatch and the works have not been completed. He invited a visit. He suggested a valuation of £180,000 on the portion in use.

3. An inspection did not take place until May 2019. At that stage the upper story was operational. A valuation certificate was issued on 26 September 2019 which made no change to the valuation.
4. Mr Goodman is critical of the quality of services provided by the respondent and states that he has been penalised because an earlier inspection did not take place. The matter then came before the Valuation Tribunal.

The Appeal Hearing of 26th July 2021

5. At the hearing on 26 July 2021 the tribunal members were physically present and sitting together in the Royal Courts of Justice, Belfast. A representative for the respondent, Mr Jeffries, took part via the video facilities. The appellant did not take live part in the hearing. The appellants had been advised of listing options open by way of letter dated 28 October 2020. They indicated they were content to rely on their written representations as per their email of 11 May 2021. The tribunal office responded by email confirming the date of listing.
6. Our decision was to uphold the decision of the Commissioner for valuation. Paragraph 12 of our decision sets out the history and issues arising as stated above.

The review

7. Mr and Mrs Goodman sought a review 14 October 2021 of the Valuation Tribunal's decision issued on 5 October 2021 following the hearing on 26 July 2021. The Valuation Tribunal dismissed their appeal against the Commissioner of Valuation's decision on the valuation of the property at 11 Loughorne road, Newry.
8. The power to review is in the Valuation Tribunal (Northern Ireland) Procedural Rules 2007. The relevant rule is rule 27:

. 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.

9. Mr Jeffrey responded by way of email dated 26 October 2021 pointing out that for the purposes of the appeal the relevant date was 5 August 2019. This was the date when the valuation certificate was issued after Mr Goodman made contact. He made the point that on the appellant’s own account the property then was occupied and available on all floors. In an email dated 9 February 2022 he advised that there will be no attendance by the respondent at the review hearing.

10. The review took place on 11 April 2022 by way of CVP. The panel members were physically present in the Royal Courts of Justice. Mr Goodman took part by audio only.

Consideration

11. The application for review was made by the appellants on 14 October 2021 and so is in time. We were satisfied the appellants had been properly notified of the hearing resulting in the decision they seek a review off. We see no issue arising in relation to the rule 21(1)(b).

12. In seeking a review, the appellant’s make detailed submissions in their application letter of 14 October 2021. Much of this is a repetition of the material made for the original appeal.

13. The application does suggest the tribunal made various factual errors. To begin with, it states that the tribunal said that a notice was sent to the appellants on 25 February 2015 whereas they say this was never received. It makes the point that the initial site visit was conducted on 26 May 2015 as per the dates on the photographs. The tribunal took this date from the presentation of evidence prepared for the appeal by the respondent. As stated at paragraph 18 of our decision we accepted they did not receive the valuation until July 2017 as it had been issued to their former address. We cannot see dates on the photographs in our bundles but in any event whether the original inspection was in February or May 2015 would not have materially affected the outcome.
14. The appellants also states that the tribunal incorrectly recorded that they received a copy of the valuation in July 2017. They state they have never received a copy of the valuation certificate. However, their letter states they received a bill in July 2017, and this led to him then contacting the respondent. They go on to state that the tribunal incorrectly found that they telephoned the respondent on 7 June 2018 questioning the valuation. Mr Goodman states he contacted them in November 2017 and asked for a review and advised that the upper floors of the house had not been completed.
15. We took the date of 7 June 2018 from the respondent's presentation of evidence which states the district valuer registered a challenge following a telephone call of 7 June 2018. We were aware that he was in contact with them before 7 June 2018 as evidenced by his letter of February 2018 when he asked for an inspection. In this respect the respondent's submission incorrectly recorded no correspondence was received from the appellant until 7 June 2018. Again, this makes no material difference to the outcome.
16. The appellant also refers to other comparators. He also states that they had a mortgage valuation conducted where the property was valued at £180,000 on the basis the upper floor was not complete. However, the comparators referred to were not raised by the appellant at the original hearing and we can see no reason why it would not have been available. The appellant states they were unaware they could access this information. Furthermore, the mortgage valuation referred to was not produced. In our decision we had referred at para 20 to the absence of evidence as to when the works were completed, and this remains a position.
17. Ultimately, the review procedure is not meant to be an appeal of the original decision or a forum for revisiting or raising new issues. Rather is it a mechanism to cover the situation which can occur where there is an obvious injustice in the appeal hearing. An example would be when appellant has not told of the appeal hearing or they submitted evidence

which should not reach the tribunal. There are other points contained in the appellant's application, but we do not find any are covered by the provisions of paragraph 21 and do not see grounds to either vary or set aside our decision. At the review hearing we asked Mr Goodman if he had any receipts as to when the stairs for the upstairs part were installed. He said the contractor had not provided receipts and the plumbers he had engaged did not need receipts for the purposes of that because this was a new build property. The appellants should try and realise it is not our function to assessing the service provided by the respondent but to determine whether the subject property has been correctly valued.

Chairman: F J Farrelly Esq

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 23 May 2022