

**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 6/22**

**S S – APPELLANT**

**AND**

**DEPARTMENT OF FINANCE – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairperson: Francis Farrelly**

**Members: Brian Reid and Noreen Wright**

**Date of hearing: 10<sup>th</sup> October 2022**

**DECISION**

The unanimous decision of the tribunal is that this appeal is dismissed.

**REASONS**

**Introduction**

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

**The Law**

2. 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 referred to as DPA.

**The Tribunal's Decision**

3. The appellant, Mr SS, has appealed the respondent's decision not to afford him rates relief on the basis of changes to accommodate his disability to his property. He requested that his appeal be dealt with on the papers.
4. The relevant parts of Section 31 A of the Rates (Northern Ireland) Order 1977 are as follows:

31A.— (1) Subject to paragraphs (5), (7) and (8), the Department shall...grant...a rebate from the rates ...

(2) 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 or for other purposes) by such a person; or
  - (ii) an additional kitchen, bathroom, or lavatory; and
- (b) a hereditament in which there is sufficient floor space to permit the use of a wheelchair used by and required for meeting the needs of a person who resides in the hereditament and has a disability.
5. His application was refused because his property did not have any of the qualifying facilities.
  6. The respondent was prepared to accept for the purposes of the appeal he is substantially or permanently disabled. He indicates he suffers from spondyloepiphyseal dysplasia, a condition characterised by short stature. He also suffers from arthritis and colitis. The appellant has provided a decision from the Department of Works and Pensions dated in 1993, stating he had been awarded the high rate of the mobility component of disability living allowance. There is a more recent letter dated 30 March 2018 in respect of PIP indicating an award of the enhanced rates of daily living and mobility. There is also physio letter dated 17 May 2022 indicating he is experiencing problems with his left hip affecting his mobility. There is a supportive letter from his GP.
  7. In his application he indicated that changes had been made to his home to facilitate his condition. Adaptations had been made to provide easier access at the front and rear. Internally, light switches and the kitchen worktop surface have been lowered. There is also Apollo draw step in the kitchen. There is a walk-in shower and the bath, sink and mirror have been lowered. In his letter of 25 March 2022, he refers to all the changes to accommodate his condition including lower door handles and a lower bed and chair. Overall, he indicates facilities have been lowered where possible to accommodate his stature.
  8. His application was refused because his home did not have any of the qualifying facilities set out in article 31A. The phrase 'including a facility' was considered by the Valuation Tribunal in the decision of Mary Quinn NIVT 12/16. In that case, the appellant had mobility issues and had ramps installed for access to a property. The tribunal concluded that whilst the ramps were not on the listed facilities in the legislation they nevertheless were facilities to meet the appellant's needs and therefore she was entitled to the rate relief. The tribunal found that the purpose behind article 31A was to provide relief where a property's rateable value had increased because of a facility being provided to meet the needs of someone with a disability. Consequently, it applied wide interpretation.
  9. The decision was appealed by way of case stated to the Northern Ireland Court of Appeal (Quinn [2019] NICA 41.) The Court of Appeal considered whether the descriptions or classes of facilities specified in article 31A limited the wording of facilities to meet the needs of a person with a disability. In setting out the facilities the legislation used the phrase 'including.' The Court of Appeal had regard to the various amendments to the legislation as well as the equivalent legislation in England and Wales. The Court of Appeal found the use of the word 'includes' was ambiguous in the circumstance and

dependent on the context. The view was that in that instance it was being used in a restrictive sense relating to an exhaustive list of facilities.

10. The appellant clearly has needs and has made changes to his home to accommodate these. Our task is to see if the legislation has been applied correctly. The legislation does provide for rate relief where property has been adapted to accommodate needs. However, the provisions are very specific. This has now been reinforced by the Court of Appeal decision. We have considered the changes made and unfortunately for the appellant none come within article 31A. Consequently, we are in agreement with the respondent's decision.

**Chairperson: Francis J. Farrelly**

**Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to the parties: 01/03/2023.**