

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: NIVT 28/15

WILLIAM YOUNG - APPELLANT

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 16 February 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 1 March 2017 the Appellant applied for leave to appeal the decision of the Tribunal. The Valuation Tribunal Rules provide for the facility to review the decision of the Tribunal 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. Alternatively cases under Art 54 of the Rates (NI) Order 1977, as amended, can be appealed to the Lands Tribunal, having first asked the President of the NIVT for Leave to Appeal.
3. In the instant case the correspondence from the Appellant was sent to the Valuation Tribunal rather than the President of the Tribunal which is the requirement for any application under Art 54. The Tribunal acceded to a review of the decision.
4. The Appellant's application for review was listed for hearing on the 27th July 2017 by way of oral hearing. Mr Young was written to at his previous correspondence

address to inform him of the date of review on 15 June 2017. Mr Young did not confirm his appearance prior to the hearing and did not attend the review.

5. By correspondence dated 1 March 2017 the Appellant submitted:

a) He did not at any stage accept that he had committed a criminal offence; he did not accept that he had built the subject property without planning permission.

The Appellant did not accept that he did not challenge the Respondent's five comparables and specifically on the basis of contravention of statutory provisions and sale on the open market.

b) The Appellant questioned whether the Tribunal correctly addressed the main argument before it – ie could the statutory assumptions in Schedule 12 be made when the Appellant provided independent and irrefutable evidence that the dwelling had no value and could not be sold on the open market.

c) The appellant questioned whether Article 6 and Article 8 ECHR had been invoked.

6. LPS declined to respond to the Appellant's issues as set out in his correspondence.

7. The Appellant did not attend the review on 27 July and the Tribunal dealt with the matter on the papers.

THE LAW

8. Rule 21 provides;

Review

21. —(1) If, on the application of a party or on its own initiative, the Valuation Tribunal is satisfied that—

its decision was wrong because of an error on the part of the Valuation Tribunal or its staff; or

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

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

otherwise the interests of justice require,

the Valuation Tribunal may review the relevant decision.

9. 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)

10. 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)(b)

11. This ground was determined to be irrelevant as the Appellant had attended the hearing on 16 February 2017.

Rule 21 (1)(c)

12. Whilst the Appellant asserted in his letter of 1 March that he did not accept he had committed a criminal offence – the evidence that he had been convicted of failure to comply with the Enforcement Notice was oral evidence which the Appellant had given at hearing in 11 January.

Furthermore the Appellant in his oral evidence confirmed he was satisfied with the valuations of the comparables provided.

Rule 21(1)(d)

13. 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.

14. 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

15. 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: 22nd November 2017