

# NORTHERN IRELAND VALUATION TRIBUNAL

Ref NIVT 31/21

**BETWEEN:**

**MS A D**

**Appellant:**

**-and-**

**DEPARTMENT OF FINANCE**

**Respondent:**

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**NIV VALUATION CHAIRMAN:** Mr Keith Gibson B.L.  
**MEMBERS:** Mr Brian Reid FRICS and Ms Noreen Wright  
**DATE OF HEARING:** 24<sup>th</sup> March 2023  
**DATE OF DECISION:** 27<sup>th</sup> March 2023

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## INTRODUCTION

1. This is an appeal by Ms D for Disabled Person's Allowance. The statutory regime pertaining to the Disabled Person's Allowance is dealt with in the Rates (Northern Ireland) Order 1977 and provides for a 25% reduction for rates for any household where a person with a disability lives and the property has been adapted or had additional facilities added to help with that disability.
2. It is not dependent upon any assessment in respect of income or savings.
3. On the 15<sup>th</sup> March 2021, the Appellant applied for a Disabled Person's Allowance in respect of her property situate at 8A Aberfoyle Park, Belfast. The Appellant was first awarded Higher Rate Mobility for Disability Allowance on the 13<sup>th</sup> June 1996, some (as of the date of this decision) twenty five years ago. The Appellant had previously lived at a separate but connected address, namely 8 Aberfoyle Park with her husband until his death in 2002. In order to allow for the Appellant's disability, she agreed with her daughter and son-in-law that they would purchase number 8 and this in turn provided the funds for the new build property (now the subject property), namely 8A, which was completed in 2004.
4. It was not in dispute that the home was specially designed and thus adapted from the design of an otherwise regular property to provide for her disability. In her grounds of appeal letter, she indicated that she had only recently learned that she should be receiving the Disabled Person's Allowance.

## **The Appellant's case**

5. The Appellant applied for the Disabled Person's Allowance on the aforementioned date of the 15<sup>th</sup> March 2021 and the Respondent, very shortly thereafter, awarded the Allowance from the 1<sup>st</sup> April 2020, being the start of the rating year in which the application was received.
6. On the 11<sup>th</sup> May 2021, the Appellant indicated that she wished to appeal the decision (which had been issued on the 26<sup>th</sup> April 2021) on the basis that the Disabled Person's Allowance should be backdated. On the 18<sup>th</sup> May 2021, a letter was issued to the Appellant advising her that the decision remained unchanged and there was no power to backdate. This was wrong; there is the power to backdate the allowance pursuant to Article 31A(8) and indeed consideration of the power and discretion to backdate has been the subject of previous consideration by the Tribunal in **GM –v- Department of Finance NIVT 15/20**.
7. In light of the fact that the letter was unclear, the Department was asked to clarify for the Tribunal:
  - (a) Whether its discretion had been exercised at all; and
  - (b) If it had, why and on what grounds the decision to refuse to backdate beyond April 2020 had been taken.
8. The basis upon which the Appellant's request to have her Disabled Person's Allowance backdated was rejected, was according to the Respondent because the availability of Disabled Person's Allowance had been communicated in each yearly rates bill, and as such the Appellant was or ought to have been aware it existed.
9. Pausing here, in the rates bill which was issued to the Appellant, and which is issued to Ratepayers generally, it is clearly stated that if a person with a disability lives in the property or the property has been suitably adapted to meet the needs of a disabled person, then there may be an entitlement to claim a 25% reduction in rates.
10. As such the availability of the relief is clearly identified in the rates bill and the Appellant can point to no other reason for failing to make the necessary application, other than inadvertence/ignorance.

## **CONCLUSION**

11. The Respondent has exercised its discretion to refuse to backdate the Disabled Person's Allowance on the basis that the existence of such an allowance was clearly communicated to the Appellant in her rates bills.
12. The Tribunal cannot interfere with the exercise of that discretion unless it could be considered so unreasonable that no other decision-maker properly

instructed or informed would make the same decision. This Tribunal therefore sees no reason to interfere with the decision made at first instance to refuse to backdate. The Appellant's appeal is therefore dismissed.

Signed: *Mr Keith Gibson*, Chairman.

9<sup>th</sup> May 2023