

NIVT 36/21

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 36/21

Raymond McFarland – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Michael Flanigan

Members: Robert McCann and Chris Kenton

Date of hearing: 21st August 2023

DECISION

Mr Raymond McFarland (“the Appellant”) has submitted an appeal against the rates valuation of the premises situate 9 Craighill Road Omagh BT79 7PD (“the premises”). The premises had been valued with a capital valuation of £160,000 with agricultural relief which reduced the capital valuation to £128,000.

Mr McFarland neither owned nor occupied the premises which were owned by Aaron Hawkes but sought to appeal the agricultural relief awarded to the premises on the grounds that Mr Hawkes had carried on a commercial business at the premises selling tractors. The Commissioner of Valuation had by a decision dated 28th June 2021 made no change in the valuation and thereby confirmed the premises were entitled to agricultural Relief. The Appellant now seeks to appeal that decision to the Northern Ireland Valuation Tribunal.

The right of appeal is set out in Article 54 of the Rates (Northern Ireland) Order 1977 and reads as follows:

- (1) Any person other than the Department who is aggrieved by-
 - (a) The decision of the Commissioner under Article 49 A or an appeal under Article 51; or
 - (b) An alteration made by the Commissioner in a valuation list in consequence of such a decision.

Before the appeal could proceed to full hearing the appeal the Tribunal had to first look at the preliminary issue of whether the Appellant had the legal standing to bring the appeal i.e. could he bring himself within the definition of an aggrieved person.

The Appellant’s evidence was that he lived at 9 Comber Road Omagh which was approximately two miles away from the premises. While he owned a house and lands which adjoined the premises he did not live in those premises which were rented out.

The Appellant confirmed that he suffered no detriment from the existing valuation and would gain no benefit if the valuation of the premises was changed on appeal. The Appellant's case was that he had brought the appeal out of concern for the public purse and because he did not think that his complaint against the agricultural relief given to the premises had been investigated properly by the Respondent.

The Decision.

The Rates (Northern Ireland) Order 1977 does not grant a right of appeal to everyone in respect of every valuation. The right of appeal against a decision of the Commissioner for Valuation is limited by law to those persons aggrieved by the decision. The Valuation Tribunal Rules (Northern Ireland) 2007 (" the 2007 Order") state that a valid Notice of Appeal under Article 54 must be in accordance with Form 3 of the 2007 Order. Form 3 requires that an Appellant must state whether they are an owner or occupier of the premises. Form 3 also requires that notice of the appeal be served on persons whose liability to be rated may be affected by the appeal. The Notice of Appeal submitted by the Appellant in this matter acknowledged that he was neither the owner of the premises or the occupier.

While aggrieved person is not defined by the legislation the requirements of Form 3 are of assistance in this case in that it requires the appellant to state whether they are an owner or occupier and that notice be served on persons whose liability for rates may be affected by the appeal. The Tribunal considers that the term aggrieved person must be read in the context of the requirements of Form 3. What constitutes an aggrieved person will depend on the facts in each case, but what the Commissioner's decision must have, is some impact upon the person which is analogous to that of an owner or occupier. It would be extraordinary if someone had the right to bring an appeal against a decision but had no right to be served with notice of the case since their rates would not be affected by the appeal.

A broad concern for the public purse is not sufficient to establish that the Appellant was an aggrieved person for the purposes of bringing an appeal under Article 54.

In this case the Appellant has taken an interest in the valuation of the property and in particular the owner's entitlement to agricultural relief. The Appellant's stated concern is for the public purse. The Tribunal wishes to point out that Tribunal time is itself valuable and an expense on the public purse. For that reason, we are obliged to examine preliminary issues such as the standing of an appellant to ensure that Tribunal time is not wasted.

In this case the Tribunal is satisfied that the Appellant is not an aggrieved person within Art 54 and the appeal is dismissed on that preliminary point.

12 September 2023

Michael Flanigan, Chairman