

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: 10/14

KEITH GERNER - APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James V Leonard, President

Members: Mr Eric Spence MRICS and Ms Angela Matthews BL

Hearing: 31 March 2015, Belfast

DECISION

The unanimous decision of the Tribunal is that the appellant's appeal is dismissed for want of jurisdiction, and the Tribunal Orders accordingly.

REASONS

Introduction

1. This is a reference which has been brought by means of an appeal under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The appeal was instituted on the part of the appellant by Form 3 and was treated by the respondent as being a capital value appeal. The appellant, by Notice of Appeal purported to appeal against the decision of the Commissioner of Valuation in respect of the valuation of a hereditament situated at 30 Linden Brae, Annalong, County Down BT34 4XS ("the subject property"). Upon receipt of the appeal, clarification was sought from the appellant concerning the precise nature of the appeal and an issue was raised by the Secretary to the Northern Ireland Valuation Tribunal concerning the potential jurisdiction of the Tribunal to deal with the appellant's appeal. Correspondence was received from both the appellant and also from James H Wells MLA. The President directed that the matter should be listed for hearing, with a preliminary issue to be dealt with at the outset of the hearing concerning the Tribunal's jurisdiction. The hearing of the matter duly proceeded on 31 March 2015, with the appellant being represented by Ms Agnes Peacock who represented the appellant on behalf of Mr Wells MLA, and with the respondent being represented by Ms Deborah Rice MRICS and by Mr McGrady MRICS.

2. At the outset of the hearing the Tribunal sought from the parties present any specific representations or legal submissions concerning the nature of the appellant's contentions and the statutory provisions applicable to appeals made to the Northern Ireland Valuation Tribunal. The representatives for the respective parties to the appeal indicated that they had no specific representations or legal submissions to make and that they were content to rely upon the Tribunal's assessment of the matter and the Tribunal's determination in respect of the statutory position and consequent jurisdiction.
3. In this matter, the appellant's contention was that he had originally applied for a 50% rating reduction in his capacity as a Minister owning and occupying the subject property. In summary, the facts are that on 11 April 2013 the appellant had submitted an application to the district valuer stating that the appellant used part of the subject property for his work as a Minister for the charity named "Audio Visual Ministries". The district valuer decided that there was no entitlement to an exemption under the relevant statutory provisions (which are mentioned further below). On 23 December 2013 the appellant appealed against that decision of the district valuer to the Commissioner of Valuation ("the Commissioner"). On 12 May 2014 a decision was issued by the Commissioner determining that there was no entitlement to exemption. It is against this latter determination of the Commissioner that the appellant has now sought to appeal to the Northern Ireland Valuation Tribunal. In view of the jurisdictional issues emerging in the matter, it was not necessary for the Tribunal to take detailed evidence concerning the work conducted by the appellant as a Minister of Audio Visual Ministries, but rather the focus of the Tribunal was upon the technical determination of the jurisdictional issues, as only if the Tribunal were to determine that it had proper jurisdiction could it then proceed to deal with the substantive merits of the matter, upon the basis of any evidence and consequent factual determinations.

The Law and the Tribunal's determination

4. In determining the Tribunal's jurisdiction in this case, it is accordingly necessary to make some observations regarding the relevant provisions of the Rates (Northern Ireland) Order 1977 (as amended) ("the 1977 Order"). The Tribunal, firstly, observes that Articles 41 and 41A of the 1977 Order make reference to situations where the Commissioner or the district valuer is satisfied that a hereditament is of a particular nature and thus ought to be distinguished in the rating list as such, for what are termed "exempting purposes". Examples of such exempted hereditaments include, by way of illustration, those hereditaments which are altogether of a public nature and are occupied and used for purposes of public service or which consist of a church, chapel or similar building occupied by a religious body, or which are used for purposes of public religious worship, or which consist of a church hall, chapel hall or similar building occupied by a religious body and which are used for purposes connected with that body or for purposes of any charity.
5. It is noted that both Articles 41 and 41A of the 1977 Order do not provide, by means of any express reference either contained within these specific Articles, or indeed mentioned elsewhere in the 1977 Order in reference thereto, for any right of appeal to the Tribunal in regard to these specific matters.

6. Turning then to the next material provision, Article 49 of the 1977 Order provides for an application to be served by any person on the district valuer for revision of a valuation list in relation to any hereditament, or where the district valuer, in the absence of such an application, considers that a valuation list ought to be revised in relation to any hereditament. It is provided in this Article, accordingly, that the district valuer shall revise the valuation list so far as it relates to that hereditament, or, if that hereditament is not already included in the list, the district valuer shall revise the list with a view to including it.
7. Article 49A of the 1977 Order provides that the district valuer may, with the consent of the applicant, transfer to the Commissioner an application served on the district valuer under Article 49 and provides that where an application is transferred under this Article, the functions of the district valuer in relation to the application served on him shall be exercisable by the Commissioner.
8. Article 50 of the 1977 Order makes provision to the effect that the Commissioner may at any time make in a valuation list any alteration which is necessary for the specified purposes.
9. Article 51 of the 1977 Order provides that a person who is aggrieved by an alteration which the district valuer has caused to be made in a valuation list, or who is aggrieved by a decision of the district valuer not to cause a valuation list to be altered, may appeal to the Commissioner against the alteration or may apply to the Commissioner for a review of the alteration.
10. Finally, Article 54 of the 1977 Order provides that a person, who is aggrieved by (a) the decision of the Commissioner under Article 49A or on an appeal under Article 51; or (b) an alteration made by the Commissioner in a valuation list in consequence of such a decision, may appeal to the appropriate Tribunal. The 1977 Order expressly provides that "the appropriate Tribunal" means (a) in relation to such appeals as may be prescribed, the Valuation Tribunal; (b) in relation to any other appeals, the Lands Tribunal.
11. Examining the full import of these material statutory provisions, the Tribunal discerns no statutory basis upon which it is empowered by the legislature to hear and to determine any appeal in the nature of the one sought to be made by the appellant in this case. The Tribunal is a creature of statute and as a consequence of that fact has no inherent jurisdiction outwith the prescribed statutory provisions empowering the Tribunal to hear and to determine specific appeal matters that are not within its prescribed jurisdiction. This case had been presented as a (deemed) capital value appeal and has been treated as such by the respondent. Notwithstanding that, it has been made quite clear by and on behalf of the appellant, at hearing, that the appellant has indeed no issue at all with the capital value ascribed to the hereditament, of itself. The appellant has, very helpfully, made it fully clear that his concern in the matter relates to the discrete issue of rating relief and in his helpful correspondence with the Tribunal he has set forth in some detail the grounds upon which he seeks such rating relief. However that is quite a different matter to those issues of appeal with which the Tribunal can deal and which are expressly prescribed by the statutory provisions mentioned above in paragraphs 6-10 of this determination.

12. For the reason that the Tribunal can discern, from a careful examination of the relevant law, no statutory basis upon which the Tribunal is empowered to hear and to determine the appellant's appeal in this case, the Tribunal, by unanimous decision, dismisses the appeal for want of jurisdiction, and Orders accordingly.

A handwritten signature in black ink, appearing to read 'James V Leonard', written in a cursive style.

**Mr James V Leonard, President
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: 2nd April 2015