

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: 27/12

BETWEEN:

MARTIN O'CALLAGHAN

Appellant:

-and-

THE COMMISSIONER OF VALUATION

Respondent:

NORTHERN IRELAND VALUATION TRIBUNAL
CHAIRMAN: MR KEITH GIBSON B.L.
MEMBERS: MR GARRY McKENNA, MR HUGH MCCORMICK

Date of hearing: 25TH November 2015
Belfast

THE SUBJECT PROPERTY

The subject property (in 2012) was a new build property situate at 198 Granemore Road, Tassagh, Co Armagh, BT61 2NL. On or about the 28th March 2012, pursuant to Article 25B and Schedule 8 of the Rates (Northern Ireland) Order 1977, Land and Property Services served on the Appellant a Completion Notice stating that the subject property was to be treated for the purposes of the Rates Order as being complete on the 15th June 2012.

The effect of the service of such a Completion Notice would be to make the person, upon whom service of the Notice was effected, liable for rates pursuant to Article 25A of the Rates (Northern Ireland) Order 1977 (which made unoccupied hereditaments liable for the payment of unoccupied property rates). The relevant provisions of Schedule 8 make clear that in deciding whether or not to serve such a notice, the Department must be satisfied that the building can reasonably be expected to be completed within three months from the date of service of the notice. Pursuant to Schedule 8, paragraph 3(4)(i), the person upon whom a Completion Notice is served may, within 28 days, appeal to the Commissioner (the Respondent in this appeal) against the Notice on the ground that the building cannot reasonably be expected to be completed within the specified timeframe. On the 19th April 2012, the Appellant appealed to the Commissioner following which an inspection was carried out on or about the 4th May 2012 by Ms Deborah Rice BSC MRICS. Ms Rice examined the property and noted the following:

1. The property was watertight with doors fitted and windows installed.
2. The walls and ceilings to the ground floor rooms were plastered.
3. The pipe work for the radiators in the ground floor rooms was in place.
4. All the light switches and sockets to the ground floor rooms were installed.

5. A temporary staircase was in place.
6. That subfloors had been installed in the ground floor rooms and that water and electricity connections had been applied for.

In Ms Rice's opinion, the only works required to complete the property were:

1. To provide a permanent, internal staircase.
2. To complete second fix joinery.
3. To install kitchen units.
4. To provide provision for connections for electricity and water.

On the basis of the above Ms Rice was satisfied that the notice was validly served, rejected the Appellant's appeal and issued her decision on the 26th June 2012. The appellant appeals to this Tribunal.

TRIBUNAL HEARING

The matter was considered by way of written submissions only and the Tribunal took into account the submissions from the Appellant which can be replicated in their entirety as follows:

"There is currently no water or electricity in the property, no second fix joinery, electric or plumbing work has been carried out and realistically it will be close to Christmas before we can financially reach this stage of the build."

The Respondent relied on the findings of Ms Rice referred to above.

DECISION

As set out above, the test which the Tribunal must consider is whether or not the building can reasonably be expected to be completed within three months. This consideration involves an analysis of:

1. The work completed.
2. The work outstanding.
3. The likely time period for completion of said work.

The onus and burden is on the Appellant to show that the Respondent has materially failed to either 1) apply the proper test or 2) has applied the proper test but applied it wrongly, either taking into account something which the Respondent should not have taken into account or failing to take into account something which they should have taken into account. The only submission advanced by the Respondent is that it would not take approximately three months to complete the work on the property but approximately six months and that the delay in completion arose solely to the Appellant's financial circumstances.

The Appellant's financial circumstances are totally irrelevant to the issue which must be considered by, not only the Commissioner, but also this Tribunal when considering the merits of the Appellant's Appeal. Given the findings of the Respondent in respect of the initial appeal, the Appellant might have sought fit to argue in some way, shape or form that the physical works which required to be

carried out, would take longer than the three months prescribed for by the legislation. The Appellant has not chosen to challenge the findings of the Respondent on material grounds nor has advanced any further or additional material grounds before this Tribunal. In all the circumstances, therefore, the Tribunal unanimously dismisses the Appellant's appeal.

**Keith Gibson Chair
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: 7th January 2016