

NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED)
AND THE VALUATION AND TRIBUNAL RULES (NORTHERN IRELAND) 2007
Case Reference: 25/15

BETWEEN:

NORMAN WHALEY - APPELLANT

-and-

**THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -
RESPONDENT**

NORTHERN IRELAND VALUATION TRIBUNAL

CHAIRMAN: MR KEITH GIBSON B.L.

MEMBERS: MR PHILIP MURPHY FRICS; MS NOREEN WRIGHT

INTRODUCTION

1. This appeal was heard by way of written submissions on the 20th July 2016.
2. The Appellant's appeal concerns and pertains to premises situate at 20 Falcon Avenue, Newtownards, BT23 4GE. Mr Whaley, who was born on the 17th September 1939, lived at the premises from March 2001 until January 2015 when the property was sold. The Appellant was, as of the 17th September 2009, over the age of 70 years old and, prima facie, entitled to relief under the provisions of the Rate Relief (Lone Pension Allowance) Regulations (Northern Ireland) 2008. The Regulations and especially Regulation 3(1) provide for a rebate to any person who has 1) attained the age of 70 years; and 2) lives solely in a dwelling house (subject to certain exceptions contained in Regulation 3(2) and the Schedule to the Regulations).
3. There can be no doubt that the Appellant is and was aged over 70 years old from the aforementioned date and no issue is taken in respect of this point.
4. On the 22nd April 2015 the Appellant applied for a rebate pertaining to the relevant period which is a period subsequent to the 1st April 2008. The rebate which the Appellant is entitled to is 20% of the amount which would have been charged by way of rates pursuant to Regulation 8(1). Regulation 7 specifically provides that the rebate

may be administered by making a payment of the amount of the rebate or by reducing the amount which the person is liable to pay by way of rates.

5. On the 16th May 2015 the Respondent, who administers the Scheme, replied to the Appellant's application by indicating that Lone Pensioner Allowance cannot be awarded retrospectively. This was expanded upon in further correspondence by the Respondent relying upon the fact that the Appellant no longer resided in or owned the property. Rates bills were provided in the submissions to the Tribunal which indicated that the following amounts were paid:

i.	1 st April 2014 – 31 st March 2015	£1,119.03
ii.	1 st April 2013 – 31 st March 2014	£1,097.75
iii.	1 st April 2012 – 31 st March 2013	£1,076.79
iv.	1 st April 2011 – 31 st March 2012	£1,059.14
v.	1 st April 2010 – 31 st March 2011	£1,040.00

DECISION

6. The Respondent's submissions were not in any way comprehensive, relying solely on the ground that Lone Pensioner Allowance could only be awarded to a qualifying person who is actually resident in the property at the time an award is made.
7. The wording of this decision displays a quite basic lack of understanding of the operation of the statutory provisions. The amount to be deducted from the rates assessment is not an award which has to be satisfied by some meritorious application to be determined by the Respondent. The Lone Pensioner Allowance is a statutory entitlement to which the Appellant is allowed or permitted by virtue of the fact that he has attained the age of 70 years and has lived solely at the property. Indeed the fact that somebody is not residing in the property any longer is envisaged by the legislation itself and the statutory provisions contained in Regulation 3(2), whereby an individual can still claim LPA even if they are not living at the property, and the most obvious example of such a factual occurrence would be where an individual has moved into a nursing home. In such circumstances the Applicant would still be entitled to the rebate.
8. The notion that the rebate does not apply retrospectively has been the subject of judicial consideration by this Tribunal in the case of **Harold Gibson –v- Land & Property Services NIVT 14/13** in which the notion that retrospective rebates were not permitted was specifically rejected. It is notable that there has been no challenge to this decision or an appeal arising therefrom. Furthermore and in support for the notion that payment can be made retrospectively Regulation 7 specifically provides for rebates and for payment of any rebate to be made either by the making of an express cash payment or in the alternative by deduction from the rates bill.

9. The fact that an individual is not residing in the property at the time the application is made is also utterly irrelevant to the statutory entitlement of an Applicant such as the Appellant. There can be no justification for refusing to provide the Appellant with the 20% rebate on his rates bills.

DECISION

10. It is the unanimous decision of the Tribunal that this appeal be allowed. On an assessment of the rates levied on the Appellant, the amount due to be rebated to the Respondent is £1078.54.

Keith Gibson – Chair

Date decision recorded in register and issued to parties: 3 August 2016