

**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: 46/15**

**ERNEST RUTLEDGE - APPELLANT**  
**AND**

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

**Northern Ireland Valuation Tribunal**

**DECISION OF PRESIDENT OF THE NORTHERN IRELAND  
VALUATION TRIBUNAL ON APPLICATION FOR LEAVE TO  
APPEAL TO THE LANDS TRIBUNAL**

I do not grant leave to the appellant to appeal to the Lands Tribunal for the reasons stated below.

**REASONS**

**Introduction**

1. The appellant in this matter appealed under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"), against the decision of the Commissioner of Valuation in respect of the valuation of a hereditament situated at number 215 Nutfield Road, Lisolvan, Brookeborough, Enniskillen BT94 4EX ("the Property").
  
2. A hearing of the appeal took place on 1 September 2016, the appellant's representative, Tom Elliott MP, having indicated to the tribunal that the appellant was content for the appeal to be disposed of by written representations. By decision with reasons promulgated by the tribunal on 8

September 2016 (“the Decision”) the tribunal’s determination as set forth in the Decision was that the appeal in respect of the Property should be dismissed, for the reasons stated. The appellant, by letter dated 14 September 2016, requested a Review of the Decision upon the statutory grounds. The matter was listed for an oral hearing on 24 October 2016. The appellant personally attended, with written submissions from his representative, Tom Elliott MP. By Decision on request for a Review, with reasons, promulgated by the tribunal on 3 November 2016 (“the Review Decision”) the tribunal’s determination as set forth in the Review Decision was that the appellant had not satisfied the tribunal that the criteria necessary for review of the Decision had been established and the decision would accordingly not be reviewed. The application was thus dismissed, for the reasons stated.

3. The appellant has now requested leave to appeal. By letter (“the appeal letter”) undated but received by the office of the tribunal on 2 December 2016, the appellant has applied for leave to appeal the Decision (and by implication the Review Decision) upon grounds set forth in the appeal letter as follows; –

*“The property is not fit for human habitation. There is no heating no water supply. Also no toilet, there is no floor in bedroom or sitting room, there is no kitchen. The house is so damage (sic) that the plaster is falling off the walls. There is no felt on the roof, the property is worth less than site value as I have the expense of demolishing and disposal.”*

4. Accordingly, I am in a position to proceed with a determination of the matter, with reference to the appeal letter grounds, the matter having been referred to me as President of the Northern Ireland Valuation Tribunal to determine whether or not to grant leave to appeal to the Lands Tribunal under the statutory provisions which are mentioned below.

5. The appeal letter sets forth particulars of the grounds upon which such a request for leave is made. Upon reading the appeal letter, the points being made by the appellant appear relatively straightforward and may be summarised as follows:

The appellant submits that both the outcome of the hearing and of the Review request application hearing (“the review hearing”) were as a result of the tribunal effectively disregarding or not attaching sufficient weight to the condition of the Property and further disregarding or attaching insufficient weight to the value of the Property which, it is contended, would be less than site value, taking into account the expense of demolition and any disposal of waste.

### **The Applicable Law**

6. The statutory provisions relevant to my determination in the matter are to be found in the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”) and in the Lands Tribunal (Amendment) Rules (Northern Ireland) 2007 (“the Lands Tribunal Rules 2007”). These are as follows (in respect of the 2006 Order): -

**“Appeal from decision or direction of Valuation Tribunal**

**54A.** —(1) Any person who is aggrieved by any decision or direction of the Valuation Tribunal under Article.... 54(2) may, with the leave of—

(a) the Lands Tribunal; or

(b) the President of the Valuation Tribunal,

appeal to the Lands Tribunal. “

These are as follows (in respect of the Lands Tribunal Rules 2007): -

“ 4. In rule A1—

(a) -

(b) at the end there shall be added the following paragraphs—

“(4) ..... an appeal under Article 54A of the Rates Order against a decision or direction of the Valuation Tribunal shall be instituted by serving on the registrar a notice of appeal in accordance with Form AC within 28 days from the date of the grant of leave of appeal by the President of the Valuation Tribunal.

- (5) A notice of appeal under paragraph (4) shall be accompanied by—
- (a) a copy of the decision or direction of the Valuation Tribunal against which the appeal is made; and
  - (b) a copy of the decision of the President of the Valuation Tribunal granting leave to appeal.
- (6) An application for leave to appeal under Article 54A of the Rates Order against a decision or direction of the Valuation Tribunal may be made to the Lands Tribunal only where the applicant has been refused leave to appeal by the President of the Valuation Tribunal. “

### **The Determination**

7. I have carefully perused the Decision of the tribunal and the Review Decision in the light of the issues raised in the appeal letter by the appellant as a basis for seeking leave to appeal. I have, further, considered any information concerning the manner in which the hearing and the review hearing were conducted by the tribunal and I have deliberated upon the procedure engaged in the management of each hearing by the tribunal, firstly, leading to the issue of the Decision and, further, the issue of the Review Decision. I have endeavoured to consider, insofar as possible, any issue emerging in the matter going beyond mere dissatisfaction on the appellant's part with the outcome, which might properly constitute a substantive, proper and persuasive basis upon which leave to appeal might be granted.
8. Having done so, I can detect no specific procedural irregularity or unfairness of approach on the part of the tribunal. The Decision sets forth a fair and proper summary of the appellant's claim and of the written evidence considered by the tribunal and of the submissions entertained. The pertinent law is correctly and accurately cited by the tribunal in appropriate detail and this is applied correctly to the pertinent facts determined in arriving at the tribunal's conclusion. Concerning the Review Decision, the tribunal conducted an oral hearing upon appropriate terms and considered written representations made on behalf of the appellant by his representative, Tom Elliott MP. The tribunal correctly and accurately recited the pertinent law concerning the reviewing of any tribunal decision and it is noted that the tribunal indeed showed some

latitude by granting an extension of time in order to facilitate the review request, which was otherwise out of time. The tribunal has analysed Mr Elliott's submission which, it is noted, did concede that the review request was confined to the statutory "new evidence" criterion. The tribunal's determination was that there was nothing in the case that could constitute new evidence and thus that there were no proper grounds for a review of the Decision.

9. Nothing arises from any of this which causes me to determine that leave to appeal ought properly to be granted in the matter. As far as I can assess the appeal letter, what has been raised by the appellant appears to constitute nothing other than a reiteration of the issues previously raised before the tribunal at first instance, which issues have been properly considered and disposed of by the tribunal. There are no new or different arguments presented nor are there any other matters advanced which were not fully and properly addressed before and considered by the tribunal in its decision-making. For this reason I do not determine that there is any issue arising from the appeal letter upon which leave to appeal ought properly to be granted to the appellant.
  
10. This being so, I do not grant leave to the appellant to appeal to the Lands Tribunal in the matter. As is mentioned above, in the event of my refusal to grant leave to appeal, any party aggrieved is entitled to apply to the Lands Tribunal for leave to appeal, under the pertinent statutory provisions in that regard.

Dated this 15<sup>th</sup> day of December 2016

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