

NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND
THE VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007

CASE REFERENCE NUMBER: NIVT 2/08

JOHN McBRIDE – APPLICANT
AND
DEPARTMENT OF FINANCE AND PERSONNEL – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mrs Barbara Jemphrey

Members: Mr David McKinney FRICS and Mrs Deirdre Dorman

DECISION ON REVIEW

The unanimous decision of the tribunal on review is that the decision of the tribunal issued to the parties on 11th June 2008 is upheld.

The tribunal unanimously determines that there is residing at the hereditament in this matter a person who suffers from a mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986 and who is of the purposes of the Rates (Northern Ireland) Order 1977 (as amended) a person with a qualifying disability.

Further the tribunal unanimously determines that the subject hereditament is not one in which there is a facility which is required for meeting the needs of the person who has the disability, in that the said facility is not essential or of major importance to that persons well being by reason of the nature and extent of their disability.

Thus the facility does not meet the requirements of Article 31 A (2) a (ii) and Article 31 A (3) (b) of the Rates (Northern Ireland) Order 1977, as amended.

Reasons

This is a review of the tribunal decision (“the decision) in respect of a reference under Article 12 B of the Rates (Northern Ireland) Order 1977, as amended (the 1977 Order”).

The decision was issued to the parties by the secretary of the Northern Ireland Valuation Tribunal (the Secretary) on 11th June 2008.

On 23rd June the appellant wrote to the Secretary seeking a review of the decision, attaching two letters from Dr Richard Hunter and a sketch map of the room layout in the subject premises.

The matter was listed for a review hearing on 1st July 2008. There was no appearance before the tribunal at the review hearing by or on behalf of the appellant or the respondent. The statutory and factual background is set forth in the decision.

The tribunal must firstly consider on review:

Is there a person residing at the property with a potentially qualifying disability?

In this case as outlined in the decision there are potentially two such persons. John Joe McBride and Eileen McBride.

The tribunal has before it the following new evidence:

1. Letter dated 19th June 2008 from Dr Richard Hunter in relation to John Joe McBride. In that brief letter Dr Hunter states that Mr McBride suffers from "Autistic spectrum disorder" and has "special educational needs".
2. Letter dated 19th June 2008 from Dr Richard Hunter in relation to Eileen McBride. In that brief letter Dr Hunter states that Mrs McBride "suffers from depression".

It was the unanimous view of the tribunal that the new evidence supplied was of limited value to the tribunal. The tribunal wrote on 2nd July to the appellant requesting additional information in the following terms in relation to both Eileen McBride and John Joe McBride.

"An individual report (or reports) for John Joe McBride and Eileen McBride from a health care professional e.g. a General Practitioner Social worker or other setting out in detail:

- (a) the specific extent of both John Joe McBride and Eileen McBride's disability and;
- (b) how this impacts on each of their accommodation needs within the family household.

Kindly supply the tribunal with any additional material which you consider relevant to your case."

The tribunal subsequently received two letters both dated 30th July from Dr Steven Graham, no other evidence was produced.

In relation to Mrs Eileen McBride Dr Graham stated:

“She suffers from depression and attends psychiatry. She has long periods in bed. She spends long periods in her bedroom away from her family”.

In relation to John Joe McBride Dr Graham stated:

“He suffers from Autism, he needs his own space when at home. Mr McBride is currently employed with a local retailer for four half days each week. He works in the store of the retailer and copes with this ok”.

On the evidence supplied the tribunal made the unanimous decision.

- (i) Eileen McBride was not substantially and permanently disabled and was therefore not a person with a qualifying disability.
- (ii) John Joe McBride was suffering from a mental disorder within the meaning person with of the Mental Health (Northern Ireland) Order 1986 and as such has a qualifying disability within the terms of the 1977 Order.

In the decision the tribunal was not required to address any further issues in view of its finding upon the qualifying disability issue. In light of the foregoing finding on review these issues must now be addressed by the tribunal.

Does the property have a qualifying facility?

Examining the issue as to a qualifying facility.

The tribunal at the original hearing heard evidence from the appellant Mr McBride (snr) that an additional living room had been built on the first floor of the premises in 2006. Mr McBride explained this was built specifically for John Joe McBride as when he was at home he spent long periods on his own as his medical condition meant he found it difficult to interact with visitors to the house.

Mr McBride confirmed that he received no grant from any Health Trust nor did he make application for such a grant in relation to the building of this room.

Mr McBride confirmed that the room comprised a three piece suite, flat screen TV and storage. He confirmed that John Joe still had use of his bedroom. He also confirmed there were no other adaption's to the premises.

Mr McBride confirmed there were two reception rooms on the ground floor of the premises which John Joe was free to use. He also confirmed that family members were able and did use the additional living room upstairs.

Mr McBride confirmed to the tribunal that John Joe worked 26 hours a week for Tesco.

Mr Cunningham for the Department confirmed that he had carried out an inspection at the premises and the additional upstairs room was being used

as a living/recreational room. Mr Cunningham also confirmed that this room was used by John Joe McBride and other members of the family.

Mr Cunningham in his evidence cited the cases of Howell Williams v Wirral Borough Council 1981 79 LRG 697 CA, Sandwell Metropolitan Council v Perks 2003 and South Gloucester Council v Titley and Clothier 2006.

Mr Cunningham contended there was no possible argument in respect of DPA being applicable to the circumstances of this case.

Noting the foregoing and the limited evidence with which it has been supplied the tribunal is satisfied that the additional first floor living room does not constitute a facility which is of essential or major importance to John Joe McBride's well being by reason of the nature and extent of his disability and as such does not meet the requirements of Article 31 (A) (2) (a) (ii) and Article 31 A (3) (b) of the 1977 order.

Barbara Jemphrey.

Mrs Barbara Jemphrey

Chairman

Northern Ireland Valuation Tribunal

TRIBUNALS UNIT

19 SEP 2008

Date decision on review recorded in register and issued to parties: