

Appeal No. VA88/0/227

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Brian Hannon

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Lot 2d, Ballycarney, Limerick, Co. Limerick
Quantum - Domestic relief

B E F O R E

Hugh J O'Flaherty

S.C. Chairman

Mary Devins

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF OCTOBER, 1988

By notice of appeal dated 22nd August, 1988, the Appellant appealed against the decision of the Respondent fixing the Rateable Valuation of the above described hereditaments at £40.00.

Mr. Hannon presented a written submission dated the 22nd August, 1988, and followed that up with a further letter of the 27th October, 1988. Mr. E.P. Whelan, who is a Bachelor of

Engineering and a District Valuer with nearly 30 years experience in the Valuation Office, presented a written submission dated the 12th October, 1988.

Prior to 1987 revision the rateable valuation was £33 on buildings the description being "house, motor house and land". In 1987 the premises was the subject of revision to "value of store on this lot" when the rateable valuation on the buildings was increased to £42 and the description amended to house, motor house, store and land, following the erection of a store on the lot. The valuation was appealed and Mr. Whelan was deputed to report.

Mr. Whelan reported on the premises and the Respondent, having considered the report, fixed the valuation of the buildings at £40 and made no change in the description.

According to Mr. Whelan the rateable valuation devalues as follows:-

House & motor house - £33.00

Store 74.8 m sq @ 10p - £ 7.48

£40.48

Say £40.00

The oral hearing took place on this date and Mr. Hannon did not appear and Mr. Whelan gave evidence to the effect that when he inspected the premises there appeared to be some builders materials stored there and also it appeared to be used for domestic purposes.

Mr. Hannon had made the point, in the course of his written submissions that the store was used "99.9% domestic" he said he used it to store bicycles, a lawnmower, a pool table for his children, pet rabbits, the dog, skateboards and a number of other things.

It was submitted by Mr. Whelan as follows:-

Prior to 1987 Revision the premises was treated as a "domestic hereditament" by Limerick County Council. As a consequence of the 1987 Revision the Council treated the premises as a "mixed hereditament".

Under Section 2 of the Local Government (Financial Provisions) Act 1978 the council could have applied to the Commissioner of Valuation for an apportionment of the rateable valuation, or the council could have granted an allowance of $1/3 \times £42.00 = £14.00$ or $£18.00$ whichever was the less. In the event neither course of action was pursued by the council, but instead an allowance of $£33.00$ was granted.

The rated occupier was not satisfied with this allowance but he did not avail himself of the options open to him under Section 7 - (1) (2) (4) of the 1978 Act.

Since under Section 7(1) of the 1978 Act, any allowance is to be made by either the local authority or the District Court, the Commissioner of Valuation has no function in this regard.

Accordingly, on First Appeal 1987, the Commissioner confined himself to consideration of the quantum of the rateable valuation under the Valuation Acts.

The Tribunal is of the opinion that it, too, has no function in the matter as it is essentially a matter for the local authority and, on appeal, the District Court to decide this issue.