

Appeal No: VA23/5/1285

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

DON MCSWEENEY

APPELLANT

AND

TAILTE ÉIREANN

RESPONDENT

**In relation to the valuation of
Property No. 56225, Retail (Shops) at 1 Killarney Road, Castleisland, County Kerry.**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF MAY 2026**

**BEFORE
Sarah Reid - BL**

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on the 19th day of October 2023 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €14,080.

1.2 The grounds of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

(a) The Valuation is Incorrect

(b) Details stated in the relevant Valuation List are incorrect

(e) Other grounds

1. Total Area of Zones A,B and C is incorrect. The correct area is 87 square meters approximately (890 sfft) , not 115 square meters, as listed in the Valuation

2. The upstairs area is unsuitable for storage. It is also unsuitable for use as offices because of access issues.

3. The estimate of the rent achievable is too high. It was vacant for two years, then rented at 125 euro per week. Tenant left after 8 month. Vacant with no interest for the past year and a half. Neighbouring shop Dealz is due to close in November after two years trading. Rent negotiated too high, according to local discussion.

See the following from Brendan Mannix, Auctioneer, Main St, Castleisland, Co Kerry:

The property is a former newsagent, book shop and tobacconist located at the corner of Barrack Street and Killarney Road, Castleisland with approximately 8mtrs of frontage to the Killarney Road and 20mtrs to Barrack Street. The retail access is from the Killarney Road with a central double door access point and two display windows to street of c.2.6Mtrs x 1.8Mtrs each. There are no windows or public access point off Barrack Street, there is a staff entrance.

The ground floor is in a very poor state of repair and the rear of the retail unit suffers from a lack of natural light and air making it a very unappealing retail prospect. The retail area extends to c.6.5mtrs x 12Mtrs = c.78 Sq Mtrs (c.800 Sq Ft) and there is a rear office / canteen area: c.5 Mtrs x 3.2Mtrs = c.8.2 Sq Mtrs (c.83 Sq Ft), this area has no natural light or air. The property does has the benefit of a WC and a security safe fitted in the ground floor. There is no heating or insulation in the retail area and the electricity supply is for the whole of the building.

We are currently marketing this property at €540.00 pcm with no enquiries forthcoming. Realistically this property should be advertised at €260pcm to make it attractive to would be retailers / office enquiries.

There are very little comparable properties in Castleisland to compare this property to. Dealz, Killarney road, Castleisland approx. 5,000 Sq Ft retail, and 2,000 Sq Ft storage was let at €25,000 per annum with tenant fit out, this is a modern retail unit with all the latest electrical and fire safety systems in place but despite this, the unit had been vacant for at least 10years prior to occupation.

Cronin's Deli 32 Main Street, Castleisland - approx 2,000 Sq Ft. of retail space, storage areas to the rear, rear enclosed yard, side access - modern unit with ducon slabs to first and second floor, concrete stairs. Rental €13,000 per annum, with tenant fit out. This unit had been vacant for approximately 24 months prior to occupation.

Both of these properties were fully modernised and insulated units with only tenant fit out required, both have high visibility and parking outside there doors.

Your property would need more that fit out for any incoming tenant, it lacks convenient parking space and is on a very busy and dangerous junction for pedestrians.

Yours sincerely

Brendan Mannix MIPAV (CV) MMCEPI

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- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,120.

2. RE-VALUATION HISTORY

- 2.1 On the 25th day of May 2023 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €14,080.
- 2.2 No representations were made and a Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €14,080.
- 2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 01st day of February 2022.

3. DOCUMENT BASED APPEAL

- 3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.
- 3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts.

- 4.1 The Property is located on a corner site on Killarney Road at the periphery of the commercial centre of Castleisland, Kerry, approx. 18 km from Tralee and 21 km from Killarney.
- 4.2 The Property is a three-storey premises in a row of commercial properties. The accommodation comprises retail on the ground floor together with a store and a W/C to the rear. The two upper floors are currently in use as storage that are accessible internally but with no separate, external access to this portion of the Property. The property is in

reasonable condition throughout and tenanted as of December 2025 when inspected by the Respondent.

- 4.3 The floor areas in the Property, measured and agreed by the parties following an inspection by the Respondent are:

Use	Floor Ares (Sq.M)
Retail Zone A	37.82
Retail Zone B	31.97
Retail Zone C	14.44
Store	14.34
Store	52.13
Store	52.13

5. ISSUES

- 5.1 Two issues fall to be considered in this Appeal; firstly, a dispute regarding the quantum of valuation for the Property and secondly whether the first and second floors in the Property are capable of being the subject of rateable occupation, within the meaning of Schedule 3, paragraph 2(b) of the Act.

6. RELEVANT STATUTORY PROVISIONS:

- 6.1 Insofar as the question of quantum arises, the net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

- 6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

6.3 Insofar as the question of whether portions of the Property are capable of rateable occupation “Relevant Property” is outlined in Schedule 3, with particular regard to Section 2 thereof:

1. Property (of whatever estate or tenure) which falls within any of the following categories and complies with the condition referred to in paragraph 2 of this Schedule shall be relevant property for the purposes of this Act:

- (a) buildings,*
- (b) lands used or developed for any purpose (irrespective of whether such lands are surfaced) and any constructions affixed thereto which pertain to that use or development,*
- (c) railways and tramways, including running line property and non-running line property,*
- (d) harbours, piers, docks and fixed moorings,*
- (e) mines, quarries, pits and wells,*
- (f) rights of fishery,*
- (g) profits à prendre, other than rights of fishery,*
- (h) tolls,*
- (i) easements and other rights over land,*
- (j) rights to drill for and take away petroleum,*
- (k) canals, navigations and rights of navigation,*
- (l) advertising stations and land and any buildings used as advertising stations,*
- (m) electricity generating stations, including where appropriate—*

- (i) all buildings and structures,*
- (ii) all tanks, including fuel oil tanks, water tanks and chemical tanks,*
- (iii) boilers, furnaces and ancillary fuel handling equipment,*
- (iv) cooling water inlet and outlet facilities, including pump-houses, culverts, pipe-works, weirs and outfall works,*
- (v) natural gas installations,*
- (vi) effluent disposal works, including chimneys and treatment plant,*
- (vii) wind generators, turbines and generators, together with ancillary plant and electrical equipment, including transformers,*
- (viii) docks, cooling towers, embankments, canals (head race, tail race), locks, penstocks and surge tanks,*
- (ix) dams, weirs, bridges, jetties, railways, roads and reservoirs,*
- (x) all ancillary on site developments,*
- (xi) all electric lines.*

- (n) the entire networks subsumed in an undertaking including, as the case may be—*
 - (i) signal transmission and reception equipment, all associated masts, lines, cables, posts, pylons, supports, brackets, ducting, tubing and all equipment necessary for normal effective functioning of the networks up to the supply point for each individual consumer,*

- (ii) all pipeline networks and systems, including pressurising and pressure reducing equipment, together with associated site developments,*
- (iii) storage and containment facilities, including tanks, silos or other plant or developments used for the storage and for containment of any substance whether solid or fluid (liquid or gaseous),*
- (iv) gas works, gas pipelines and natural gas terminals,*
- (v) telecommunications, radio and television relay and rediffusion networks, including lines, cables and ancillary appendages necessary for the working of such networks,*
- (vi) electricity transformer stations, including—*
 - (I) all buildings and structures,*
 - (II) all site developments,*
 - (III) transformers,*
 - (IV) electrical equipment, including switchgear, circuit breakers and associated developments,*
 - (V) all electric lines,*
- (vii) electric lines (within the meaning of the Electricity (Supply) Act, 1927, as amended by section 46 of the Electricity (Supply) (Amendment) Act, 1945), including transmission and distribution networks and consumer service mains and networks on, over, or underground, together with lines and cables with their respective supports (including poles, pylons and brackets), culverts, cuttings, ductings and pole transformers, used in association with those electricity conductors.*

2.—*The condition mentioned in paragraph 1 of this Schedule is that the property concerned—*

(a) is occupied and the nature of that occupation is such as to constitute rateable occupation of the property, that is to say, occupation of the nature which, under the enactments in force immediately before the commencement of this Act (whether repealed enactments or not), was a prerequisite for the making of a rate in respect of occupied property,

or

(b) is unoccupied but capable of being the subject of rateable occupation by the owner of the property.

7. APPELLANT'S CASE

- 7.1 The Appellant didn't submit a formal précis of evidence but set out his case and supporting evidence in the Appeal by way of narrative grounds in his Notice of Appeal (same being recited in full at paragraph 1.2 above) together with additional documents, a lease dated September 2024 in respect of the Property and emails including from a local estate agent familiar with the Property and other commercial units in the town.

- 7.2 In summary the Appellant's evidence was that firstly, the floor areas in the Valuation Certificate were incorrect where they state a rateable area of 115 sq.m and same should be 87 sq.m. Secondly, it is argued the upstairs area is unsuitable for storage or for use as offices because of access issues and thirdly that the Respondent's estimate of the rent achievable is too high where the Property was vacant for two years, then rented at 125 euro per week for a period but thereafter remained vacant with no letting interest. A lease from September 2024 showing a rental income of €6,000 was also relied on by the Appellant in respect of the commercial rental reality.
- 7.3 In support of his case that the Property could not achieve the Respondent's estimated rent, the Appellant refers to a neighbouring commercial unit (Dealz) that had a high spec fit out but still struggled to secure a tenant and was due to close after two years trading allegedly do to rent costs. The Appellant also referenced another proximate property (Cronin's newsagent) that struggled to secure a tenant despite high spec fit out and better amenities to the Subject Property. In addition, the Appellant also provided evidence, by way of an email from an estate agent, recommending the space should be advertised at €260pcm to make it attractive to would be retailers / office enquiries.
- 7.4 As noted above, evidence of the rental value currently secured on the Property was advanced by the Appellant (by way of a lease dated 5th September 2024) showing a rent of €6,000 but no evidence was provided regarding occupancy, rental use or rental income that existed in respect of the Property on the Valuation date of 1st February 2022.
- 7.5 Accordingly and relying on the above, the Appellant maintained that the Respondent's NAV of €14,800 (per the Valuation Certificate as issued) was excessive and he asks the Tribunal to confirm a NAV of €3,120, though the breakdown calculation of same was not provided or otherwise explained in the documents before the Tribunal.

8. RESPONDENT'S CASE

- 8.1 The Respondent filed a précis of evidence with opinion of Value being provided by Ms. Roisin Casey for Tailte Éireann. Revised zoned areas have been applied in respect of the Property, as set out below, but a NAV of €12,620 was recommended based on five NAV comparisons and two key rental transactions (KRTs), described below. In light of the evidence, it was the Respondent's case that the Property was capable of use and should be valued and entered on the Valuation List in its entirety, commensurate with similar properties.
- 8.2 In support of their valuation, the Respondent provided evidence of two KRTs: PN55850 with a lease date of 19th January 2022 close to the valuation date and a NER of €18,062.80 (€314.08 per sq.m) producing a NAV of €8,550.00 as well as PN 45141 with a lease date of 1st July 2022 and a NER of €4,294.72 (€120 ZA per sq.m) producing a NAV of €6,740. The Respondent also adduced evidence of five NAV comparisons as follows:

Property Number	Address	NAV per sq.m	NAV
56229	Killarney Road, Castleisland	€130	€10,970
56232	Killarney Road, Castleisland	€130	€5,900
56233	Killarney Road, Castleisland	€130	€12,740
56264	Killarney Road, Castleisland	€130	€16,300
55820	Main Street, Castleisland	€150	€11,270

8.3 In respect of the Appellant's claim that the upper floors of the property have restricted access and same should be reflected in the Valuation, the Respondent maintains that, on inspection these floors were in use for storage purposes thereby satisfying the requirement of Schedule 3 of the Valuation Act 2001 as amended. Insofar as the Appellant claims there is no access to these floors other than through the ground floor retail use, the Respondent maintains this does not make the floors exempt from rates.

8.4 On the matter of the floor area in the Property, the Respondent states that both parties have agreed the overall areas as 202.83 sqm, representing an increase in floor area initially included in the Valuation Certificate. The Respondent further confirmed that although the areas have increased, the NAV has reduced due to zoning and accordingly, they are seeking a revised NAV of €12,620 in respect of the Property calculated as follows:

Use	Floor Area (Sq.M)	NAV per Sq.M	NAV
Retail Zone A	37.82	€130	€4,916.60
Retail Zone B	31.97	€65	€2,078.05
Retail Zone C	14.44	€32.50	€ 469.30
Store	14.34	€20	€ 286.80
Store	52.13	€55	€2,867.15
Store	52.13	€38.50	€2,007.05
Total NAV			€12,624.95
NAV, Say			€12,620

8.5 In summing up the Respondent's case Ms. Casey argues the Appellant submitted three pieces of Market Evidence that when analysed, work out at an average €122.43 Zone A thereby supporting the level of €130 Zone A applied to the Property. Further and per the NAV comparisons relied on, the Appellant's Property is valued in line with other retail properties on the street, none of which have been appealed, and it has been valued at a lower level than those on Main Street due to the location of the subject property. Accordingly, it is her case that the Property NAV reflects the particular circumstances of the building and the Appellant has not shown any relevant new evidence at the valuation date that would warrant changes to the NAV Zone A level attached to the property.

9. SUBMISSIONS

9.1 No submissions of a legal nature were provided by either party to this Appeal.

10. FINDINGS AND CONCLUSIONS

- 10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Kerry County Council.
- 10.2 The Tribunal has found on several occasions that the onus of proof rests with the Appellant in an appeal (See *Proudlane Ltd. t/a Plaza Hotel* (VA00/2/032) and *AIB Group PLC v Commissioner for Valuation* (VA20/4/0053)). The position was expanded on in Tribunal decision *FGM Properties v Commissioner for Valuation* (VA19/5/1091) wherein it was held: “*The onus of proof rests on the Appellant to demonstrate, through cogent evidence that the Respondent has erred.*” Arising from these decisions, and in order to succeed in their appeal, an Appellant must demonstrate, through cogent evidence, that the Respondent has erred in their valuation of the property under appeal. In that respect, the Appellant was obliged to satisfy the Tribunal, through evidence, that the Respondent’s valuation was incorrect and failed to meet the requirements of correctness of value, together with equity and uniformity of value between properties on the valuation list required under S. 19 (5) of the Valuation Act, as amended.
- 10.3 The Appellant in this Appeal challenged the valuation of his Property on two fronts, firstly that the Respondent’s NAV was excessive and out of line with similar properties and secondly that the upper floors of the Property were ‘unsuitable’ for storage or other uses (for example as offices) due to access issues. Though not expressly stated as such, the Tribunal views this as a request that the said spaces be deemed incapable of being used from a valuation perspective, meaning they ought to be excluded from the valuation of the Property.

Appropriate NAV

- 10.4 The parties have provided conflicting NAV opinions with the Respondent maintaining a NAV of €12,620 is appropriate and justified based on the evidence provided by them, and the Appellant maintaining a figure of €3,120 should be entered, though the calculation of same is not provided or otherwise explained in the documents. For reasons already stated, the onus of proof rests with the Appellant to make their case that the Respondent erred in their valuation of the Property and from the evidence put before it, the Tribunal is not satisfied that has been shown.

- 10.5 In particular, the Tribunal notes the Appellant's reliance on comments by an estate agent that two other properties that have experienced commercial trading difficulties confirm the commercial reality and letting difficulties experienced in the town and should be considered in the context of this Appeal. In the first instance, the Tribunal finds that the properties in question and the information relied on in that respect, relates to commercial developments subsequent to the Valuation date of 1st February 2022. Secondly, and in respect of overturning the NAV ascribed to the Property, the Tribunal finds that the Appellant was obliged to provide cogent, confirmed information regarding relevant comparative properties in support of their case, and that was not done, or not done to a standard the Tribunal requires.
- 10.6 In the circumstances, the Tribunal must weigh the parties respective NAV evidence, and having done that in this Appeal, the Tribunal prefers the Respondent's opinion evidence of NAV.

Exclusion from the List

- 10.7 The Appellant didn't expressly seek an exemption from rates for the upper floors of the Property but states in his grounds of appeal that these areas are 'unsuitable' for use. In the first instance, the Tribunal notes that there is a difference between a property being 'unsuitable' for a particular use, or uses, and it being 'incapable of use' in a wider commercial and/or letting sense. The default position under the Valuation Act, 2001 is that all property listed in Schedule 3 falls to be valued as 'Relevant Property', unless covered by paragraph 2 of that Schedule, for example where the Property is incapable of beneficial occupation. Separately, a property may be excluded from the Valuation List notwithstanding it is 'Relevant Property', if it falls into a class of properties listed as exempt under Schedule 4 of the Act being types of premises and types of uses that are exempt from valuation.
- 10.8 The Tribunal's powers in an Appeal are dictated by the claim an Appellant makes. If an Appellant claims a property is not 'Relevant Property' and incapable of use (pursuant to Schedule 3 paragraph 2) then the Tribunal must decide, based on the evidence, as to the state of the property and its potential use to an occupier. Alternatively, if an Appellant claims that a property is or ought to be exempt from valuation, the Tribunal is required to consider if the property falls within the category of exempted properties listed in Schedule 4 of the Act. In the present case, the Appellant simply stated in their grounds of Appeal that the Property is 'not suitable' for storage or office use because of 'access issues' later described as no separate or independent access to these areas. Absent further argument and/or evidence as to whether this qualifies for exemption under Schedule 3, paragraph 2 or Schedule 4 of the Act, the Tribunal is unclear what case the Appellant is making and/or asking the Tribunal to decide on.

The use of the Property

- 10.9 The Appellant is essentially asking the Tribunal to deem the upper floors of the Subject Property incapable of use. The Tribunal finds that the Appellant is misconceived in their view that because these elements of the Property cannot be separately or externally accessed, that they cannot be commercially used to some extent. Indeed, upon inspection, the said areas were documented as being used for storage purposes.
- 10.10 It is well established that in assessing the possibility of rateable occupation, the hypothetical tenant falls to be considered and whether the Property *'is capable of being beneficially occupied in the hands of any other person' or 'struck with sterility when in any and every body's hands, so that no profit can be derived from the occupation of it'* (paragraph 38 *Fibonacci Property ICAV v Commissioner of valuation* [2020] IEHC 31). The Tribunal finds that unless an Appellant can satisfy the Tribunal that the Property is *"struck with sterility"*, such that no occupant could derive financial benefit from its occupation, then it will be deemed capable of rateable occupation and lawfully included on the Valuation List. Furthermore, in assessing whether or not a property is 'of value or benefit to the occupier', per in *Fibonacci Property ICAV v Commissioner of valuation* [2020] IEHC 31:

"one does not look only at the question of pecuniary benefit or whether a profit may be made but may also look at the wider question as to whether [the owner or occupier] is in 'immediate use and enjoyment of the land'"

Beneficial occupational

- 10.11 Insofar as beneficial occupational falls to be considered in this Appeal, the decision of Mrs. Justice Hyland in *Fibonacci Property Ica v Commissioner of Valuation* [2020] IEHC 31 refers wherein she found that:

"27. It is common case that in a deciding whether an owner is in beneficial occupation one does not look only at the question of pecuniary benefit or whether a profit may be made but may also look at the wider question as to whether it is in "immediate use and enjoyment of the land" (as characterized in Sinnott v Neale [1984] (IR JUR. REP. 10, even though in that case the defendant was not in occupation of the property) or whether the occupation was of value (O'Malley v The Congested Districts Board 2 [1919] IR 28)"

- 10.12 In addition, the legal position was considered by the English Court of Appeal in *Williams v Scottish & Newcastle Retail Ltd & Ors* [2001] ALL ER (d) 173 wherein the Court considered the threshold for beneficial occupation which was described as a low one:

"57. The first and most important of these principles is the distinction between the determination of a person's liability to be rated (on the one hand) and the

quantification of that liability by determination of the rateable value (on the other hand). Mr. Holgate submitted that the Lands Tribunal fell into serious error by failing to make this distinction. He also relied on what he called the principles of reality and uniformity. These submissions call for serious consideration.

58. A person cannot be liable to pay non-domestic rates unless he is in occupation of a non-domestic hereditament within the meaning of the 1988 Act, and there is a long line of cases (starting, so far as the modern law is concerned with the Mersey Docks case in 1865) on the concept of rateable occupation. It is a concept which imports the notion of beneficial occupation, but not necessarily in the same sense of being profitable to the occupier personally. Moreover, the need for benefit is (as Mr. Holgate urged, referring to the advice of the judges given by Blackburn J in the Mersey docks case (1865) II HLC 443, 461) a low threshold. Once a hereditament has passed this threshold and is shown to be rateable, the valuation process requires a determination of annual value to a hypothetical tenant holding under a hypothetical annual tenancy and the actual occupier ceases to be relevant.”

- 10.13 Having assessed the evidence provided by the parties, the Tribunal finds that insofar as Schedule 3 permits exclusion of a property if it is incapable of use and beneficial occupation, this has not been proven by the Appellant. From the evidence before it, the Tribunal finds that the Property is capable of use by the Appellant or a hypothetical tenant and while the Appellant maintains the property accommodation restricts its use, the rooms are nonetheless accessible and capable of being used for some purpose. In addition, the Property does not fall within the category of properties listed in Schedule 4 of the Act and no express argument was put forward in that respect by the Appellant.
- 10.14 In light of the foregoing and the evidence in this Appeal, the Tribunal is not satisfied that the Appellant has shown that the Respondent erred in entering the Property on the List in its entirety, ie including the upper floors. The Tribunal finds that the evidence was the Property was capable of ongoing use by a hypothetical tenant in the view of the Respondent’s valuer following an inspection of the building accommodation. This was not addressed or commented on by the Appellant nor was distinct legal or valuation evidence provided by them to support their claim for exemption bar the opinion of an estate agent as to the likely rental prospects of the Property, subsequent to the Valuation date.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and directs a revised valuation of €12,620 be entered on the List in respect of the Property (reflecting the revised floor areas and Zoning agreed between the parties).

RIGHT OF APPEAL:

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal's determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.