

THE VALUATION TRIBUNAL FOR ENGLAND



Council tax liability appeal; whether adjustment under Disability Reduction Regulations permitted; Regulation 3 provisions not met; appeal dismissed.

RE: Green Park, Rigg Lane, Blidworth NG21 0NS

APPEAL NUMBER: VT00016625

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| BETWEEN: | RAH | Appellant |
| | and | |
| | Newark and Sherwood District Council | Respondent |
| | (Billing Authority) | |

PANEL: Mrs J Hadley (Senior Member), Ms A Lynch

REMOTE HEARING: 1 December 2023

PARTICIPANTS: Ms J Hudson, on behalf of the respondent billing authority

CLERK: Mrs H Beresford

Summary of decision

1. Appeal dismissed. The panel found that no reduction was appropriate under Regulation 3 of The Council Tax (Reduction for Disabilities) Regulations 1992 (as amended).

Introduction

2. This appeal has been brought against a decision issued by Newark and Sherwood District Council dated 10 March 2023, which rejected her application for a disabled band reduction in relation to Green Park, Rigg Lane, Blidworth NG21 0NS. The appellant appealed against the billing authority's decision under Section 16(1) of the Local Government Finance Act 1992 and the appeal was received by the Valuation Tribunal on 18 April 2023.

3. The appellant did not participate in the hearing of her appeal but requested that the hearing proceed in her absence.
4. This decision document is not and does not purport to be a verbatim record of proceedings.

Issue

5. Whether the appellant was entitled to a reduction in her council tax by virtue of an adjustment made under the provisions of The Council Tax (Reductions for Disabilities) Regulations 1992 (as amended).

Evidence and submissions

6. The billing authority had provided a bundle of evidence which included: reference to the relevant legislation; a background and details of the appeal including submissions made by the appellant; and reasons for their decision.
7. The appellant had made the following arguments as to why a reduction should be granted. She has been disabled and house bound since 2018 due to surgery of the left hip which has caused restricted mobility. She relies on walking sticks, a walking frame and grab rails and has a swivel seat over the bath and double banisters on the stairs to help her to get around the appeal property. She stated that a wheelchair, extra bathroom, extra kitchen, or extra room would be of little use to her as she lives alone. The appellant argued that she is in constant pain as she also fell and broke her humerus bone and had been told that surgery to rectify the injury was not usually successful, so she had not had it done. The appellant contended that she should be treated like a human being and granted a discount due to her disabilities and not the rooms in her home.
8. Ms Hudson asked the panel to confirm the billing authority's decision to reject the appellant's application for a disabled band reduction; given that none of the evidence provided by the appellant satisfied the criteria set out in the relevant regulations.

Decision and reasons

9. Firstly, the panel had regard to the relevant council tax Regulations; namely, Regulation 3 of The Council Tax (Reductions for Disabilities) Regulations 1992 (as amended). The relevant parts are reproduced below and any one of them had to be satisfied for an application for a disabled band reduction to be successful:

3 (1) A person is an eligible person for the purposes of these Regulations if—

(a) he is a liable person as regards a dwelling which is the sole or main residence of at least one qualifying individual and in which there is provided—

(i) a room which is not a bathroom, a kitchen or a lavatory and which is predominantly used (whether for providing therapy or otherwise) by and is required for meeting the needs of any qualifying individual resident in the dwelling; or

(ii) a bathroom or kitchen which is not the only bathroom or kitchen within the dwelling and which is required for meeting the needs of any qualifying individual resident in the dwelling; or

(iii) sufficient floor space to permit the use of a wheelchair required for meeting the needs of any qualifying individual resident in the dwelling; and

(b) as regards the financial year in question, an application is made in writing by him or on his behalf to that authority.

(2) For the purposes of paragraph (1), and subject to paragraph (3), references to anything being required for meeting the needs of a qualifying individual are references to its being essential or of major importance to his well-being by reason of the nature and extent of his disability.

(3) A wheelchair is not required for meeting an individual's needs if he does not need to use it within the living accommodation comprising or included in the dwelling concerned.

(4) . . .

10. Within these Regulations, a qualifying individual is defined as:

“qualifying individual” means a person who is substantially and permanently disabled (whether by illness, injury, congenital deformity or otherwise).”

11. No dispute arose over whether the appellant was a “qualifying individual” for the purposes of the regulations; she suffered from a lack of mobility.

12. In the appellant’s appeal letter and other correspondence which had been sent for the attention of the Tribunal it was stated that she did not have an extra kitchen or extra bathroom to meet her needs neither did she have a room which is predominantly used (whether for providing therapy or otherwise) by and is required for meeting the needs of any qualifying individual resident in the dwelling. The panel also noted that the appellant did not make use of a wheelchair within the living accommodation.

13. The panel did not have any discretion in making this decision as its jurisdiction only extended to ensuring that in making the decision, the billing authority had applied the law correctly. It turned to the relevant legislation.

14. For Regulation 3(1)(a)(i) to apply, the appellant must have a room, predominantly used for meeting her needs that was of essential or major importance to her well-being. In addition, there had to be a causal link between her use of that room and the extent and nature of her disability. The criteria also specified that the room in question, could not be a kitchen or a bathroom. The appellant had stated that she did not. The panel therefore concluded that the criteria within Regulation 3(1)(a)(i) had not been met.

15. For the application of a reduction under Regulation 3(1)(a)(ii), the appeal property was required to have an additional kitchen or bathroom, to meet the needs of the appellant due to the extent of her disability. In her evidence, the appellant confirmed that she did not. As there was only one kitchen and bathroom within the property, the required criteria had not been fulfilled.

16. Finally, the panel addressed Regulation 3(1)(a)(iii). This, in effect, required the appellant’s property to have enough floor space to permit the use of a wheelchair which was required for meeting her needs. Regulation 3(3) specified that a wheelchair was not required for meeting an individual’s needs if the individual did not need to use the wheelchair within the property.

The appellant had stated that she did not use a wheelchair within the appeal property and the panel therefore concluded that the required criteria had not been fulfilled.

17. The panel accepted that the appellant was a qualifying individual; however, it found that none of the requirements set out in the criteria in subparagraphs (a) (i), (ii) or (iii) of Regulation 3(1) had been fulfilled. Consequently, the billing authority's decision was upheld, and the subject appeal dismissed.

Date: 15 December 2023

Appeal Number: VT00016625

Right of appeal:

Any party who is aggrieved by the Tribunal's decision has the right of appeal to the High Court on a question of law. Any such appeal should be made within four weeks of the date of this decision notice