THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; 2010 Rating List; warehouse and premises; actual unit of occupation; insufficient evidence provided to demonstrate that the first floor offices and reception were not in the appellant's demise; appeal dismissed.

RE: Relax Masters Ltd, Sidney Street, Wolverhampton WV2 4HH

APPEAL NUMBER: 463529007802/221N10

BETWEEN:	Mr J Grewal	Appellant
	and	
	Mr D Virk (Valuation Officer)	Respondent

PANEL: Mr W Read (Senior Member)

CLERK: Mrs Rachel James IRRV (Hons)

REMOTE HEARING 3: Friday 26 February 2021

APPEARANCES: Mr J Grewal (Appellant)
Mr D Byrne (for the Valuation Officer)

Summary of Decision

1. Appeal dismissed.

Introduction

2. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

3. Therefore, in pursuance of regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

4. This appeal has been brought in respect of the following: Relax Masters Ltd, Sidney Street, Wolverhampton WV2 4HH (the 'appeal property'), which was entered in the 2010 rating list as 'warehouse and premises' at £14,000 Rateable Value (RV), with effect from 7 February 2016. The details and grounds of the proposal were:

   'The rateable value altered to £9,600 with effect from 7 February 2016.

   We have been charged for the reception and first floor offices, whereas they are not occupied by us.'

5. The appeal property was of brick construction. Part one storey and part two storey. The one storey workshop had a corrugated concrete roof. The first floor area had a flat bitumen roof. The property was located on Sidney Street in Wolverhampton in a predominantly commercial area.

6. As permitted within the Tribunal's Business Arrangements, due to unforeseen circumstances, I heard this appeal alone.

7. This was the third listing of the appeal. On a previous listing, the appellant had attended the hearing, however Statements of Cases had not been served by the parties. Therefore, the panel adjourned the hearing and issued Direction DON-19-061, which requested that:

   i) by 5 pm on Monday 23 December 2019, the appellant must serve on the Valuation Officer a copy of all the evidence that he may wish to present at a future hearing;
   ii) by 5 pm on Monday 13 January 2020, the Valuation Officer must serve on the appellant all of the evidence that he may wish to present at a future hearing; and
   iii) by 5 pm on Monday 27 January 2020, the appellant must submit a copy of both parties' evidence to Tribunal office.

8. Direction DON-19-061 had not been compiled with, the Tribunal office had not received a copy of both parties' evidence by 27 January 2020. However, on 28 January 2021, the Valuation Officer served a Statement of Case and on 23 February 2021, the appellant provided a letter from his landlord that he wished to rely on at the hearing. Whilst the requirements of Direction DON-19-061 had not been compiled with, I was mindful that the appellant in this case was an unrepresented ratepayer who was unfamiliar with the appeals process. Furthermore, there was no objections by either party to the late evidence. Accordingly, I proceeded to hear the appeal having regard to all of the evidence provided.

9. The absence in this decision of a reference to any statement or item of evidence placed before me by the parties should not be construed as it being overlooked.

Issues in dispute:

10. Should the reception and first floor offices be included in the appeal property's assessment.

Evidence and Submissions

11. Mr Grewal provided the panel with a letter from his landlord dated 23 February 2021. The letter stated that since the Relax Master Building was divided in February 2016, Relax Master Ltd (the appellant) had never had access or paid rent for the first floor offices. First Fresh Foods had sole access and use of the first floor offices and had subsequently been paying rent for this part of the building. Relax Master Ltd only had access to and paid rent for the ground floor.

12. Mr Byrne provided the panel with his bundle of evidence, which comprised a written statement, the existing assessment, a copy of the proposal form, the appeal history and google aerial site and street view photographs. Mr Byrne explained that the appeal property had been inspected on 24 March 2016 by a representative of the Valuation Office Agency (VOA) who collated survey data and confirmed the details on site. The property was subsequently reconstituted between the appeal assessment and First Fresh Foods Ltd, who had occupied part of the ground floor warehouse with effect from 7 February 2016. Mr Grewal had not provided documentation such as lease details, to confirm which part of the property was in the demise of Relax Master Ltd. Accordingly, he sought dismissal of the appeal.

Decision and Reasons

13. I had regard to the statutory definition of rateable value, which was found in schedule 6(2)(1) of the Local Government Finance Act 1988, which stated:

    ‘The rateable value of a non-domestic property shall be taken to be the amount equal to the rent which it is estimated the hereditament might reasonably be expected to let from year to year on the following assumptions:

    a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
    b) the second assumption is that immediately before the tenancy begins the hereditament is in a reasonable state of repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;
    c) the third assumption is that the tenant undertakes to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.’

14. Having regard to the above definition, I had to assume that the appeal property was in a reasonable state of repair, unless a reasonable landlord would consider those repairs uneconomic.

15. On the proposal form, Mr Grewal had contended that Relax Master Ltd did not occupy the first floor offices or the reception, both of which were occupied and rented by First Fresh Foods. In support of the appeal, in a letter dated 23 February 2021, J&R Investments (UK) Ltd Flexible Trading Space, the landlord, had stated that Relax Master Ltd did not pay rent or have access to the first floor offices. First Fresh Foods had sole access to this part.

16. I note that no mention was made by the landlord to the reception area as highlighted on the proposal. When questioned on this, Mr Grewal explained that the reception was only a small area and his main concern was the first floor office.

17. The VOA undertook an inspection of the premises on 24 March 2016, when survey data was collated and the details were confirmed on site. Mr Grewal explained that he was the person that showed the VOA representative around the premises and there must have been a misunderstanding regarding who had been in occupation of the relevant parts of the premises.

18. I note that this is the third listing of the appeal, plus a specific Direction had been issued requesting the exchange of evidence. Unfortunately, despite the Standard Directions having been issued, together with the specific Direction, Mr Grewal had not provided a copy of the lease or any other documentation to confirm which parts of the premises had been in the appellant's demise as at the material date of 7 February 2016. I accept that a letter had been provided by the landlord. However, I would expect floor layout plans or extracts from the lease to collaborate the statement made by the landlord in his letter.

19. Having regard to the evidence presented, I do not feel that I have been presented with sufficient evidence to demonstrate that as at 7 February 2016, the reception and first floor offices were not in the demise of Relax Masters Ltd. As such I confirm the existing entry of £14,000 RV, with effect from 7 February 2016.

20. As pointed out at the hearing, Mr Grewal had the opportunity to appeal against the appeal property's compiled 2017 Rating List assessment and provide sufficient evidence to confirm which parts of the premises was in the appellant's demise. If the appeal was successful, the appeal property's rating assessment would be amended with effect from 1 April 2017.

21. In view of the above conclusions, I dismissed the appeal.

Date: 9 March 2021
Appeal Number: 463529007802/221N10