



Between

162TACD2022



**Appellant**

and

**REVENUE COMMISSIONERS**

**Respondent**

---

**Determination**

---

**Introduction**

1. This is an appeal to the Tax Appeals Commission (“the Commission”) of the decision of the Revenue Commissioners (“the Respondent”) of 27 January 2022 to withdraw Single Person Child Carer Credit (“SPCCC”) claimed by the Appellant for the year 2018, resulting in him being assessed as having a tax liability of €1,650.00.
2. The Appellant delivered his Notice of Appeal on 3 February 2022. This Appeal proceeded by way of oral hearing heard on 26 August 2022. The Commissioner was grateful to have the benefit of written and oral submissions provided by both parties.

**Background**

3. The Appellant was for the year 2018 a PAYE taxpayer assessed to tax as a single person. The Appellant claimed SPCCC for that year.
4. The Appellant began residing in [REDACTED] in 2017 in a property purchased with his partner with the assistance of relief under the Help to Buy Scheme. Prior to this, the Appellant and his partner resided in [REDACTED].

5. The Appellant gave evidence that in early 2018 he and his partner had a child. He further gave evidence that, not long thereafter, his partner left Ireland to return to her family in Poland on account of suffering from depression. He said that she did not return from Poland until approximately 2018 and, as a consequence, he alone resided with and cared for the child during this time. He said that he could not be certain about dates of his partner's departure and return to Ireland on account of stress from work and the demands of caring for his child on his own.
6. The Respondent commenced a compliance check in relation to the Appellant's claim for SPCCC for 2018 and on 5 November 2021 sought evidence in support of the same.
7. Having received no such evidence, the Respondent determined on 27 January 2022 that the claim for SPCCC should be refused, leaving the Appellant with a tax liability of €1,650.00.

### **Legislation and Guidelines**

8. Section 462B of the TCA 1997 makes provision for a tax credit of €1,650 for certain types of persons who have a "qualifying child" residing with them for the greater part of a year, or the greater part of a year following the birth of a child.
9. Under section 462B (1)(c) of the TCA 1997, the credit is not available to couples who are cohabitants.
10. Section 462B (3) of the TCA 1997 provides:-

*"Subject to subsection (5), an individual to whom subsection (2)(a) applies, shall be entitled to a tax credit (in this section referred to as a "single person child carer credit") of €1,650."*

11. Section 462B (2)(a) of the TCA 1997 provides:-

*"This paragraph applies to an individual (in this section referred to as the "primary claimant"), being an individual to whom this section applies, who proves for a year of assessment that a qualifying child is resident with him or her for the whole or the greater part of that year of assessment or, in respect of a child born in that year of assessment, for the greater part of the period remaining in that year of assessment from the date of birth of that child, provided that where a child is the subject of an order and the child resides with each parent for an equal part of the year of assessment, this paragraph shall apply to whichever of the parents referred to in that order is the recipient of the child benefit payment made under Part 4 of the Social Welfare Consolidation Act 2005."*

## **Submissions**

### *Appellant*

12. It was submitted by the Appellant that he should be allowed SPCCC for the year 2018 on the grounds that his partner was in Poland with her family for the majority of that year, leaving him to care for the child alone.

### *Respondent*

13. The Respondent submitted that there was no evidence other than the Appellant's word to support his account that his partner was in Poland and not in Ireland cohabiting with him for the year 2018, as she had been for 2017 and years prior to that. The Respondent submitted that it was incumbent on the Appellant to produce corroborative evidence to this effect in circumstances where there were records indicating that not long prior to 2018 they had purchased a property together.

## **Additional Supporting Evidence**

14. On account of the fact that the Respondent's sole objection to the granting of SPCCC was a lack of corroborative evidence, the Appellant was afforded the opportunity to provide material proving his partner's residence in Poland during 2018 within a period of three weeks after the conclusion of the hearing on 26 August 2022. The Respondent raised no objection to the Appellant being afforded this opportunity.

15. On 20 September 2022, the Commission received the following information from the Appellant:-

- (a) a booking reference, with no indication of the purchaser or the passenger name, for a flight departing from [REDACTED] on 6 March 2018 to [REDACTED] Poland; and
- (b) a statement from the Appellant's bank account containing an entry indicating that on 6 February 2018 he had paid €101.50 to Ryanair.

## **Material Facts**

16. The facts material to this appeal are as follows:-

- the Appellant and his partner began residing in [REDACTED] in 2017, having purchased a property together with the assistance of the Help to Buy Scheme. Prior to that they resided together in [REDACTED];
- in early 2018 the Appellant and his partner had a child together;

- for the year 2018 the Appellant was a PAYE taxpayer assessed to tax as a single individual.
- the Appellant claimed SPCCC for the year 2018;
- on or about 6 February 2018 the Appellant paid €101.50 from his bank account to Ryanair;
- as of the date of the delivery of the Notice of Appeal the Appellant and his partner cohabited with their child.

### Analysis

17. In order to obtain SPCCC under section 462B of the TCA 1997, it is necessary for person to reside with “qualifying child” and not be cohabiting with their partner.

18. It is not in dispute that the Appellant’s child constitutes a “qualifying child”. What is in dispute however is whether the Appellant and his partner were living apart in 2018, leaving the Appellant to reside with and care for their child on his own for the greater part of that year after the child’s birth.

19. The burden of proof in tax appeals rests with the Appellant. This was articulated by Charleton J in *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49, at para. 22 in the following terms:-

*“The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable”.*

20. The Appellant’s claim for SPCCC was refused by the Respondent on the grounds that there was no evidence to support his claim that he satisfied the statutory criteria for relief. In his Notice of Appeal, Statement of Case and at hearing the Appellant was not able to say when his partner departed Ireland or when precisely she returned. The most he could say was that these events occurred in early and late 2018 respectively.

21. To give the Appellant every opportunity to prove his entitlement to SPCCC, a period of three weeks was allowed after the conclusion of the hearing for him to deliver supporting documentation. What the Appellant delivered however does not corroborate his account. All it amounts to is proof that the Appellant purchased flights from Ryanair for €101.50 on 6 February and that somebody, it is not apparent who, had a booking on the 18:50 flight from [REDACTED] to [REDACTED] a month later.

22. As of the date of the delivery of the Notice of Appeal on 3 February 2022, the Appellant and his partner continued to reside together. If the Appellant's partner had lived in Poland for the greater part of 2018 after the birth of her child, it would surely be possible for the Appellant to produce evidence proving her prolonged stay. Nothing of this nature was furnished and no explanation was given as to why it could not be. Given that the Appellant and his partner bought a property together not long before the period at issue in this appeal and then had a child, it was reasonable for the Respondent to have doubts regarding his eligibility for SPCCC and to seek corroborative evidence. Bearing in mind that the burden of proof rests with the Appellant, his failure to furnish any such material is fatal to his succeeding in this appeal.

### **Determination**

23. The Appellant failed to discharge the burden of proof that he resided alone with his child for the greater part of the 2018 following his child's birth. Consequently, the decision of the Respondent to refuse the claim for SPCCC for that year must stand affirmed and the Appellant's appeal must fail.

24. This appeal is determined under section 949AL of the TCA 1997. This determination contains full findings of fact and reasons for the determination. Any party dissatisfied with the determination has a right of appeal on a point of law only within 21 days of receipt in accordance with the provisions set out in the TCA 1997.



Conor O'Higgins  
Appeal Commissioner  
28 September 2022