



VALUATION TRIBUNAL FOR ENGLAND

Council tax liability appeal: Local Government Finance Act 1992; Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269]; application for an extension of the time limit to bring an appeal; application refused; appeal dismissed.

APPEAL NUMBER: M0260115 (formerly, 0540M260115/282C)

RE: 287 Gladstone Street, Peterborough, PE1 2BX
(the "subject dwelling")

BETWEEN: Khurram Asghar Appellant
and
Peterborough City Council (Billing Authority) Respondent

SITTING AT: VTS Offices London, 120 Leaman Street, London, E1 8EU

ON: Tuesday 4 February 2020

BEFORE: Mr DJ Hayes (Senior Member)

APPLICATION FOR AN EXTENTION OF THE TIME LIMIT FOR MAKING AN APPEAL

*Regulation 21 of the Valuation Tribunal for England
(Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269]*

Decision

1. The application for an extension of the time limit for the making of the appeal is refused.
2. Accordingly, the appeal must be dismissed.

Reasons

Background

3. The proceedings on this appeal were initiated by the Appellant's service of a notice of appeal on 20 May 2019. On that notice, the Appellant stated that he had written to the Respondent about his dispute on 15 February 2019 but had not received a response within two months. Ordinarily, this would be considered as having been made within time. Therefore, the appeal was registered and listed for a hearing before a Panel of Tribunal members.

4. However, after the Tribunal provided the appeal documents to the Respondent, an objection was raised. In short, the Respondent's objection was that the Appellant's grievance raised the same issues raised in earlier grievances, the responses to which were not appealed.
5. The hearing of the appeal was therefore postponed whilst this preliminary matter could be considered. The Appellant was requested to complete an application for the extension of the time limit for the making of the appeal, which he did in August 2019. Inadvertently, the matter was again listed for a hearing before the preliminary matter was considered and it was again postponed pending that determination.
6. The application has now been placed before me to consider.

Relevant law

7. Section 16 of the Local Government Finance Act 1992 (the "Act") provides that a person may appeal to this Tribunal where they are aggrieved at the dwelling being considered a chargeable dwelling, their being held liable for the payment of council tax in respect of the chargeable dwelling, or the calculation of the amount they are liable to pay. However, subsection (4), provides –
 - (4) *No appeal may be made under subsection (1) above unless –*
 - (a) *the aggrieved person serves a written notice under this subsection; and*
 - (b) *one of the conditions mentioned in subsection (7) below is fulfilled.*
8. Subsections (5) and (6) prescribe that the written notice in subsection (4) must be served on the billing authority concerned and must state the matter by which, and the grounds on which, the person is aggrieved. The conditions set out in subsection (7) are –
 - (7) *The conditions are that—*
 - (a) *the aggrieved person is notified in writing, by the authority on which he served the notice, that the authority believes the grievance is not well founded, but the person is still aggrieved;*
 - (b) *the aggrieved person is notified in writing, by the authority on which he served the notice, that steps have been taken to deal with the grievance, but the person is still aggrieved;*
 - (c) *the period of two months, beginning with the date of service of the aggrieved person's notice, has ended without his being notified under paragraph (a) or (b) above.*
9. Regulation 21 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269] (the "Tribunal Procedure Regulations") makes provision for time limits for the making of appeals. Where an appeal is initiated outside of the time limit, the Tribunal must dismiss the appeal.
10. Paragraphs (2) and (3) provide the time limit for appeals under section 16 of the Act. In summary, where condition found at section 16(7)(a) or (b) of the Act is met, the appeal must be initiated within two months of the billing authority's reply to a person's grievance. Where the condition found at section 16(7)(c) of the Act is met, the appeal must be initiated within four months of the date the person served their notice of grievance upon the billing authority.

11. Paragraph (6) of Regulation 21 of the Tribunal Procedure Regulations provides that the President of this Tribunal may authorise an appeal to be entertained outside of the time limit. That is a function he has delegated to me, a Senior Member of the Tribunal, at PS1 of the Tribunal's Consolidated Practice Statement. For an appeal to be authorised outside of the time limit, the failure of the person to initiate the appeal within time must have arisen by reason of circumstances beyond that person's control.

Parties representations

12. The Respondent contends that it has already responded to earlier grievances on the same points and in respect of the same periods. Those responses were sent on 4 July 2012 (in respect of periods covered by Liability Orders dated 7 February 2012 and 12 June 2012) and the 18 June 2014 (in respect of periods covered by Liability Orders dated 18 June 2013 and 23 July 2014). It is the Respondent's case that, notwithstanding the letter of 15 February 2019, the Appellant is significantly outside of the time limit to bring the appeal as he should have done so in response to those letters.
13. In his written submission applying for the extension of time, the Appellant contends that he did not receive the Respondent's letter of 18 June 2014. He also sets out that he has never been made aware of the existence of the letter in subsequent correspondence with the Respondent. He is silent regarding the letter of 4 July 2012.
14. The Appellant states that he did not request a decision letter from the Respondent until 15 February 2019. He also highlights that the Respondent has not identified any prejudice it has suffered in consequence of any delay in bringing the appeal. Instead he argues that the Respondent has utilised this procedural point as a means to delay its submissions required under the Tribunal's standard directions.
15. In addition to the submissions on the preliminary matter, I have also summarily reviewed the content of the hearing bundle submitted in accordance with the Tribunal's standard directions. This enabled me to review the Respondent's letters of the 4 July 2012 and the 18 June 2014.

Decision

16. In view of the content of the Respondent's letters dated 4 July 2012 and 18 June 2014, I am satisfied that the communications from the Appellant that prompted them must have set out matters and grounds by which the Appellant was aggrieved by the Respondent's decisions. I am further satisfied that the Respondent's letters were themselves replying to the respective grievances, finding that they were not well-founded.
17. I am therefore satisfied that on 4 July 2012 and 18 June 2014, for the respective periods, the Appellant's right to appeal to this Tribunal was engaged; both conditions at section 16(4) of the Act having been satisfied. Appeals against those matters should have been brought to the Tribunal no later than 4 September 2012 and 18 August 2014, respectively.
18. I find that the Appellant's letter of 15 February 2019 seeks to remake those earlier grievances. The issues raised in 15 February 2019 turns on whether the subject dwelling is a house in multiple occupation for the periods covered by Liability Orders dated 7 February 2012, 12 June 2012, 18 June 2013 and 23 July 2014. That is identical to the matters responded to in the Respondent's letters of 4 July 2012 and 18 June 2014.

19. I do not consider that it is open to a person to remake the same grievance at a later date. To allow that practice would render the time limit provisions at Regulation 21 of the Tribunal's Procedure Regulations a nullity, and this would be clearly perverse.
20. I am willing to accept the Appellant's statement that he did not receive the letter of 18 June 2014 at face value. However, there is no explanation as to why the Appellant did not in any event appeal within four months of his communication to the Respondent which prompted that letter. Further, that also does not help explain why he did not bring an appeal after the Respondent's letter dated 4 July 2012.
21. Having reviewed the Appellant's preliminary and substantive arguments, I find that he is clearly a knowledgeable person, who has a grasp of council tax law and is clearly capable of bringing proceedings before the Tribunal. I find that he would have been able to establish the correct venue in which to make an appeal and the time limit for doing so, even if he had not received the Respondent's notification of an appeal right. I would not expect a person of such calibre to delay acting for between five and seven years.
22. Instead, I find that the Appellant is seeking to restart the process in the hope that he might be considered within time and be able to relitigate those earlier unlitigated matters. I summarily considered whether the principle of *res judicata* would bar the Appellant's cause of action. However, as I have not had any submissions from the parties on this point, I make no decision on it.
23. Nevertheless, for the above reasons, I am not satisfied that the delay in bring the appeal was by reason of circumstances beyond the Appellant's control. Accordingly, I cannot authorise the appeal to be entertained outside of the time limit and it must be dismissed.

Mr DJ Hayes
SENIOR MEMBER
4 February 2020