



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **HAV/43UF/HNA/2024/0604-0606**

Property : **9 Cromwell Walk, Redhill, RH1 1JA**

Applicant : **Mr Kimpson**

Representative : **In Person**

Respondent : **Reigate & Banstead Borough Council**

Representative : **Oliver Capildeo of counsel**

Type of application : **Appeal against a financial penalty under section 249A of the Housing Act**

Tribunal members : **Mr R Waterhouse FRICS
Mr K Ridgeway MRICS
Ms T Wong**

Date and Venue of hearing : **21 March 2025
FTT(Property Chamber) Residential
Property, Havant Justice Centre,
Elmleigh Road, Havant, Portsmouth- By
remote video.**

Date of Decision : **4 April 2025**

DECISION

Decisions of the Tribunal

1. The Respondent made an Application for Strike out of the Applicants case on the grounds of non-compliance with the Directions.
2. The Tribunal, after consideration, struck out the Application for an Appeal against a financial penalty under section 249A of the Housing Act.

The background

3. The Applicant submitted on 25 November 2024 three Applications to Appeal against a financial penalty under section 249A of the Housing Act 2004.
 - Financial Penalty 24/0000241/HCPNF in respect of a fire door for the sum of £5333.
 - Financial Penalty 24/0000242/HCPNF in respect of cleaning of kitchen appliances for the sum of £ 800.
 - Financial Penalty 24/0000243/HCPNF in respect of a windows ability to function, for the sum of £ 2000.
4. Directions were issued to the parties on 16 January 2025. The Directions provided that;
 - The Applicants case should be submitted by the 30 January 2025 in the manner required in the Directions.
 - The Respondents case submitted by 20 February 2025 in the manner required in the Directions.
 - The Applicant by 6 March 2025 to make a concise Reply to the Respondents case.
 - By 6 March 2025 the Applicant should submit a bundle agreed by both parties to the tribunal.
5. The Respondent made available to the Applicant their case on the 14 February 2025 by means of an electronic file exchange system called Egress and notified the Applicant as such.
6. The Applicant replied on the 16 February 2025 to the Respondent stating they could not access the files. The Respondent resent the files by the same method. The Applicant restated on 4 March 2025 that they could not access them.
7. The Respondent agreed with the Applicant that the files should be sent by email this they did on the 5 March 2025 the documents contained within in approximately nine emails. The Respondent suggested to the Applicant

they, the Applicant, should consider making an extension of time to comply with the Directions.

8. On the 11 March 2025 the Applicant made an Application to the Tribunal for an extension of time to submit the bundle. The Applicant stating in the Application that the request had been agreed with the Respondent. Counsel for the Respondent submitted at the hearing the Application for an extension of time was not an agreed Application.
9. Judge Whitney on 18 March 2025 refused the extension of time save as to the deadline for the submission of the bundle which was put at 5pm on 19 March 2025. The Order noted;

“The Application is refused save that the date for submission of the bundle is extended until 5pm on 19 March 2025.

I am satisfied this is proportionate. A week has elapsed since the application and I am not clear why a bundle could not be produced within that period of time. A hearing is listed for 21st March 2025 and it would not be in the interests of justice for the date to be vacated. I note the directions provided the bundle was to be submitted by the 6 March 2025. This application was not made until 11th March 2025. The Applicant refers to issues accessing documents supplied by the Respondents however these should have been supplied by 20th February 2025 leaving ample time for the Applicant to obtain access if there were any issues. I note no detail has been provided.

If the Applicant fails to provide the bundle the application shall be struck out without further reference.”

10. The Bundle was received by the tribunal on 19 March 2025.
11. At the hearing Counsel for the Respondent requested the Applicants case be struck out through non-compliance with the Directions namely; (i) the bundle was not agreed, the first the Respondent was aware of it was when it was received on 19 March 2025, (ii) the bundle did not comply with the Directions in terms of contents and (iii) there were omissions from the bundle in particular the Respondents statement of case.

Decision

12. The Tribunal retired to consider the Application for Strike out by counsel for the Respondent.
13. The Applicant had supplied a bundle by the date required by the Order of Judge Whitney of 18 March 2025. The tribunal did not consider the sanction of Strike Out lightly. The Directions are very clear as to the contents of the bundle and the process for agreement of such. In the absence of this the Respondent was placed at a significant disadvantage.

14. The Bundle submitted was not agreed, nor did it, in the absence of agreement, contain the Respondent's full statement of case nor the exhibits from the Respondent.
15. The Respondent requested a Strike Out because in their opinion the case if heard would place them at a severe disadvantage.
16. The Applicant in response to the Respondents request for Strike Out did not provide a reason why the documents were absent nor an explanation why the matter of the bundle being unresolved had been left to a point considerably beyond that required by the Directions.
17. In the absence of any reasonable excuse or explanation, and with no adjournment request was made by either party. The Tribunal mindful of the time already expended on the case considered an adjournment would not be proportionate and Struck Out the Applicant's case.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).