



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

Case Reference	: HAV/00LC/HIR/2024/0601
Property	: 233A Canterbury Street, Gillingham, Kent, ME7 5XB
Applicant	: George Somogyi
Representative	: Wright & Co
Respondent	: Medway Council
Representative	: Venky Krishnan – In-house Counsel
Type of Application	: Appeal against an Improvement Notice Housing Act 2004
Tribunal Members	: Regional Surveyor J Coupe FRICS Mr P Cliffe-Roberts FRICS
Date & Venue of Preliminary Hearing	: 2 April 2025 at Havant Justice Centre, Elmleigh Road, Havant, PO9 2AL
Date of Decision	: 27 May 2025

DECISION

Summary of Decision

The Tribunal is not satisfied that the Applicant has provided good reasons for the failure to appeal an Improvement Notice before the end of 21 days. Accordingly, the Tribunal dismisses the Applicant's application.

Background

1. On 19 November 2024, the Tribunal received an application from the Applicant seeking to appeal an Improvement Notice ("the Notice") dated 1 May 2024.
2. In the application, the Applicant stated that it was made under Schedule 1, paragraph 13(1) of the Housing Act 2004 which applies to either: (a) a decision by the local authority to vary an Improvement Notice, or (b) a decision by the authority to refuse to revoke or vary an Improvement Notice. However, the Tribunal did not receive any decision or Notice indicating a variation of, or refusal to revoke, the Improvement Notice.
3. The application also included a copy of a Notice of Intent to impose a Financial Penalty, dated 25 September 2024. However, no Final Notice of Financial Penalty was provided to the Tribunal, nor was an application to appeal a Notice of Financial Penalty submitted.
4. On initial review, the application before the Tribunal appeared to have been received outside of the statutory time limits of appeal. Consequently, the Tribunal formed a preliminary view that it was minded to strike out the application under Rule 9(2)(a) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, on the basis that the application was received out of time and the Tribunal therefore lacked jurisdiction.
5. The Tribunal issued Directions requiring the Applicant to provide 'additional and better information' by 6 February 2025.
6. On 6 February 2025, the Applicant submitted further information, within which it was stated that the intent of the application was to appeal both the Improvement Notice and the Notice of Intent to impose a financial penalty. The representations were not copied to the Respondent and were subsequently forwarded by the Tribunal.
7. On 11 February 2025, the Tribunal listed the matter for a preliminary hearing to be held on 2 April 2025. The purpose of the hearing was to consider whether the Tribunal was satisfied that there was a good reason for the Applicant's failure to appeal within the 21-day time limit, and for any subsequent delay in seeking permission to appeal out of time, in accordance with Schedule 1, Paragraph 14(3) of the Housing Act 2004.
8. The parties were directed to submit their representations and any supporting evidence - limited to the issue of whether the Tribunal should

accept the appeal against the Improvement Notice out of time – by 19 March 2025. All representations were to be copied to the other party.

9. These reasons address in summary form the key issues raised by the parties. They do not recite each point referred to in submissions and evidence but concentrate on those issues which, in the Tribunal's view, are critical to this decision. In writing this decision the Chairman had regard to the Senior President of Tribunals Practice Direction – Reasons for Decisions, dated 4 June 2024.

The Preliminary Hearing

10. The preliminary hearing was held on the 2 April 2025, at Havant Justice Centre. The Tribunal members sat in person, while the parties attended remotely via video link. The Applicant, George Somogyi, was present and was initially represented by Mr John Wright of Wright & Co. However, partway through the hearing, Mr Somogyi dis-instructed Mr Wright and proceeded to represent himself. The Respondent was represented by Mr Krishnan, in-house Counsel.
11. Michael Coward, Senior Private Housing Technical Officer at Medway Council attended and spoke to his witness statement dated 19 March 2025. Corinna Salter, for the Respondent, was also in attendance.
12. The hearing was recorded and such stands as a record of proceedings.
13. It was common ground between the parties - and confirmed by the Applicant at the outset of the hearing - that the application to appeal the Improvement Notice was received by the Tribunal outside the 21-day time limit from the date of receipt of the Notice. Accordingly, the issue before the Tribunal was whether the Applicant had good reason for failing to appeal within the prescribed period and, if so, whether an extension of time should be granted by the Tribunal.

The Applicant's case

14. The Applicant does not dispute receipt of the Improvement Notice, nor does he contest that his appeal to the Tribunal was submitted out of time. Instead, he relies on the existence of good reason and extenuating circumstances to justify the late submission of his appeal.
15. The Applicant acknowledges that certain remedial works were required at the property. However, he contends that his efforts to carry out those works were frustrated by the tenant who was occupying the property at the time and required rehoming by the Respondent on account of health issues.
16. The Applicant submits that correspondence with both the Private Sector Housing Department and with the Adult Social Care Department at Medway Council demonstrates his willingness to carry out improvements to the property. However, he states that he was unable to engage

tradespeople while the tenant remained occupation, as none were willing to work in the property whilst the tenant was in occupation.

17. The Applicant further argues that he was unable to comply with the requirements of the Improvement Notice due to Medway Council's Adult Care Services department failing to take timely and proactive steps to relocate the tenant to more suitable accommodation, thereby preventing the Applicant from complying with the Notice's conditions within the required timeframe.
18. It is the Applicant's position that he was, *"hopelessly stuck in the middle of two different departments of the same council, leaving him exposed to have to comply with an improvement notice whilst at the same time waiting for the adult services department to move the tenant on."*
19. The Applicant asserts that he commenced remedial works immediately after the tenant vacated the property, thereby evidencing his ongoing intention to comply.
20. During cross-examination by Mr Krishnan and in response to questions from the Tribunal, it emerged that the Applicant also sought to rely on a letter he claimed to have received from the Respondent in July 2024, which purportedly stated that the Improvement Notice had been suspended. Neither party initially provided this letter. Given its potential significance to the facts of the case, the Tribunal requested a copy. Shortly thereafter, a copy was emailed to the Tribunal, which then took a short break to consider its contents.
21. The letter, addressed to Mr Stroud at 233A Canterbury Street, is dated 17 July 2024, with an opening paragraph stating *"I write in connection with a Suspended Improvement Notice reference 24/02311/HN39, a reference number allocated to this matter."*
22. The purpose of the letter was to notify the Applicant of a scheduled property inspection by Medway Council on 24 July 2024. While the Applicant acknowledged during cross-examination that the primary intent of the letter was to arrange the inspection, he nevertheless contended that he relied on the phrase 'Suspended Improvement Notice' within the letter to infer that the Notice had been formally suspended and was no longer in effect. On that basis, he argued that he believed there was no requirement to lodge an appeal with the Tribunal.
23. The Applicant further contends that his correspondence with the Respondent demonstrates a clear intention to appeal the Improvement Notice. He argues that, notwithstanding the formal application to appeal was not submitted until 10 November 2024, his earlier communications with the Council should be regarded as indicative of such an appeal.

The Respondent's case

24. Following an inspection of the property on 19 December 2023 by an Officer of Medway Council's Private Sector Housing Department ("PSH"), the Respondent served an Improvement Notice, pursuant to Sections 11 and 12 of the Housing Act 2004 and Statement of Reasons under Section 8 of the Housing Act 2004, on the Applicant on 1 May 2024. The Notice required remedial works to be completed by 3 July 2024.
25. The Respondent asserts that the remedial works could be undertaken while the tenant was in occupation of the property. Should the Applicant consider that the property requires to be unoccupied to do so, then, as the landlord, the responsibility to temporarily rehouse the tenant falls to the Applicant.
26. On 19 June 2024, Mr Wright of Wright & Co, sent a letter to the Respondent on behalf of the Applicant, stating that a Notice to Quit would be served on the tenant as a means to obtaining vacant possession in order for the property to be refurbished to a habitable condition.
27. On 24 July 2024, the Respondent noted that the Notice had not been complied with and, subsequently, a Notice of Intent dated 28 August 2024, was served on the Applicant.
28. On 17 September 2024, Mr Wright of Wright & Co sent a letter of Representation to the Respondent regarding the Notice of Intent dated 28 August 2024.
29. On 25 September 2024, the Respondent sent a letter to the Applicant addressing the representations advanced by Mr Wright, to which Mr Wright responded on 2 October 2024. The Respondent replied on 8 October 2024 confirming that it remained their intention to impose a Financial Penalty as stated in their letter dated 25 September 2024.
30. On 23 October 2024, the Respondent served a Final Notice for a Financial Penalty on the Applicant.
31. On 4 December 2024, Mr Wright of Wright & Co, advised the Respondent that the tenant had vacated the property and that remedial works were underway.
32. On 10 December 2024, the Respondent replied to Mr Wright confirming that the Notice remained in force and advised that until the Notice was fully complied with, the Applicant would continue to be in breach of the Notice.
33. The Improvement Notice was dated 1 May 2024 and yet the application to the Tribunal was not received until 19 November 2024. The Respondent therefore says that the application was received over six months out of time and is significantly delayed, without good cause.

34. The Respondent says that service of the Notice was addressed to the Applicant's home address and was sent by first class Royal Mail, for which a certificate of service was obtained. The Applicant does not seek to challenge receipt of the Notice. The Notice was therefore validly served.
35. The Notice fully sets out the process for an appeal to the Tribunal, with the relevant timescale and details of the Tribunal.
36. There was no reason why the Applicant should not have been able to read and understand the Notice and, in particular, the reference to his right to appeal to the Tribunal.
37. At no point within the six-month period did the Applicant appeal the contents of the Notice to Medway Council. A copy of the Notice was also sent to the Applicant's agent, Wright & Co.
38. The Respondent is not satisfied that the Applicant has provided good reasons for the failure to appeal the Notice in time. Accordingly, the Respondent seeks a dismissal of the Applicant's application.
39. In furtherance, the Respondent notes that the Applicant's application was submitted after the imposition of the Financial Penalty. It is suggested that the Applicant seeks to avoid paying the penalty.
40. In response to Medway Council's letter dated 17 July 2024, which referred to a 'suspended Improvement Notice', the Respondent maintains that the Notice was never formally suspended, as doing so would have required a specific procedural process that was never initiated. Whilst acknowledging the potentially ambiguous wording of the letter, the Respondent notes that the Applicant did not raise the issue at any point prior to the hearing. The Respondent stated that this omission is particularly striking if the Applicant genuinely believed the Notice had been suspended.

Reasons for Decision and findings of fact

41. The Tribunal finds that the matter before it is the Applicant's appeal against the Improvement Notice dated 1 May 2024. Accordingly, the Tribunal confines its consideration strictly to that issue.
42. The Tribunal finds that the Improvement Notice, including the requisite guidance notes providing details on how to appeal and the time frame for doing so, was served on the Applicant on 1 May 2024.
43. The Tribunal finds that the Applicant does not challenge receipt of the Notice nor its validity.

44. The Tribunal finds that the application to appeal the Notice was received by the Tribunal on 19 November 2024, a date not disputed by the Applicant.
45. Accordingly, the Tribunal finds that the application to appeal the Notice was received out of time.
46. Turning next to whether the Applicant had good reason for submitting his appeal out of time.
47. Following receipt of the Notice in May 2024, the Tribunal finds that the Applicant's representative, Mr Wright, engaged in ongoing correspondence with the Respondent between June and October 2024, primarily concerning the rehoming of the tenant and the Applicant's inability to comply with the Notice while the tenant remained in occupation. However, the Tribunal finds that no application to appeal the Notice was submitted to the Tribunal during this period. The formal appeal was not submitted until approximately six months after the Notice was served. While the Applicant may contend that this ongoing dialogue constituted an appeal, the Tribunal does not accept that position.
48. The Tribunal finds that, although the letter sent by the Respondent dated 17 July 2024 and addressed to Mr Stroud contained a poorly worded reference to a 'suspended Improvement Notice,' its overall purpose was unambiguous: to arrange an inspection of the property. The letter made no explicit statement or implication that the Notice had been formally suspended.
49. The Tribunal finds no credible evidence that the Applicant genuinely relied on the letter to conclude that the Improvement Notice had been suspended. Neither the Applicant nor his representative sought clarification on the matter from the Respondent, nor was there any reference to a suspension of the Notice in the subsequent correspondence exchanged between the parties over the following months. The Tribunal finds that the letter was first mentioned during the hearing in oral submissions, and it was only at that stage that the Applicant sought to rely on it.
50. When questioned by the Tribunal as to why the letter had not been included in his submissions, the Applicant responded that he believed it was the Respondent's responsibility to produce it. The Tribunal found this explanation unconvincing, particularly given the weight the Applicant now seeks to place on the letter in support of his case.

Decision

51. The onus in this matter is on the Applicant to establish the reasons for the delay in submitting an appeal and to prove that such reason is a good reason. In this case, not only did the Applicant fail to appeal the Improvement Notice within the prescribed timeframe, but the appeal was submitted some six months after the Improvement Notice was served.

52. While the Tribunal acknowledges that the Applicant personally found the process daunting and lacked experience in dealing with such matters, nevertheless, the Applicant was professionally represented by his long-standing agent throughout.
53. The Tribunal does not accept the assertion that the Applicant's representative believed his ongoing correspondence with the Respondent constituted an appeal to the Tribunal. There is no evidence to support this claim.
54. The Tribunal also does not accept that the Applicant genuinely believed the Notice had been suspended as of July 2024. Had that been the case, it would be reasonable to expect some reference to such within the correspondence between the parties over the subsequent four months. However, no such evidence was presented.
55. Accordingly, the Tribunal is not satisfied that there is a good reason for the failure to appeal before the end of the 21-day period or for any delay since then, in applying for permission to appeal.
56. Accordingly, the Tribunal dismiss the application.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days

after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.