



**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

**[2025] UKUT 147 (AAC)
Case No. UA-2024-000846-CIC**

Summary: Criminal Injuries Compensation (70.3 other: procedure)

Error of law in non-receipt of notice of First-tier Tribunal hearing and resulting non-attendance at that hearing. Resulting non-attendance was material; applicant would have attended and what she would have said could have made a difference. Quashed and remitted.

On judicial review from the First-tier Tribunal (Social Entitlement Chamber)

Between: BMC Applicant
and
The First-tier Tribunal Respondent
(Social Entitlement Chamber)
The Criminal Injuries Compensation Authority Interested party

Before: Upper Tribunal Judge Perez

Decision date: 13 May 2025
Decided on consideration of the papers

Representation:

Applicant: Representing herself
Respondent: Eilidh Wright, CICA

DECISION

1. I allow this judicial review to the extent of remittal.
2. The decision of the First-tier Tribunal dated 6 March 2024 (under reference 1702-9102-9648-9189) is quashed. The case is remitted to the Social Entitlement Chamber of the First-tier Tribunal, to be reheard in accordance with the directions at paragraph 23 of this decision.

REASONS FOR DECISION

Introduction

3. This is Ms BMC's application for judicial review of the First-tier Tribunal's decision which dismissed her criminal injuries compensation appeal. I gave permission on 8 January 2025 to bring this judicial review.

Factual and procedural background

Claim and First-tier Tribunal appeal

4. Ms BMC made a claim for criminal injuries compensation. I need not specify the crime of violence for which the claim was made.
5. CICA refused the compensation claim under paragraph 23 of the scheme. This was for failing to co-operate in bringing an assailant to justice.
6. Ms BMC appealed to the First-tier Tribunal against that refusal.
7. Ms BMC did not attend the First-tier Tribunal hearing.
8. The First-tier Tribunal dismissed her appeal.
9. Ms BMC made an application to that tribunal for its decision to be set aside for her non-attendance. The application was treated as a request for written reasons. Written reasons were then produced and supplied to Ms BMC.

Application to the Upper Tribunal

10. Ms BMC then applied to the Upper Tribunal. She told me she did so rather than renewing the set-aside application in the First-tier Tribunal because she was keen to move this along and perceived applying to the Upper Tribunal to be the quickest route.
11. Ms BMC said in her completed application form to the Upper Tribunal that she “was unaware of the court date” for the First-tier Tribunal hearing because “the letter got sent to the wrong address”. I directed an oral hearing for her to explain further.
12. The Upper Tribunal held an oral hearing by video, before me, of Ms BMC’s permission application.
13. Ms BMC represented herself at the Upper Tribunal hearing. CICA did not attend and was not represented. The First-tier Tribunal did not attend and was not represented either.
14. Ms BMC explained to me at the hearing that she had never received the notice of hearing informing her of the date of the First-tier Tribunal hearing.
15. She explained to me that, when she had heard nothing from the First-tier Tribunal, she telephoned that tribunal to ask what was going on. She told me that the lady who took her call said “it had gone to court and they had refused it”. She told me the lady told her the address to which the First-tier Tribunal had sent the notice of hearing (and the address to which, later, the tribunal decision and accompanying forms had been sent). Ms BMC told me that the address the lady gave her was not Ms BMC’s address. Ms BMC recalled that the lady told her the notice of hearing had gone to [name] Square, but not to number 4 which was (and is) Ms BMC’s address. Ms BMC thought she recalled the lady telling her that the notice of hearing (and the decision and forms) had been sent to 12 [same name as in previous sentence] Square. Ms BMC explained to me that her neighbours did not “really know” her to bring the letter to her. She also pointed out that

this was not a case of misdelivery where the address on the envelope had been number 4 (her own address) but it had gone to number 12. Rather, the envelope had not been addressed to her address in the first place, she explained, according at least to the lady who took her call in the First-tier Tribunal. So the recipients would not know which house to bring it to even if they wanted to be neighbourly and do so, explained Ms BMC.

Grant of permission to bring judicial review

16. I gave permission, on 6 January 2025, to bring judicial review proceedings. I did so on the grounds that it was arguable, in view of paragraph 15 above and for the reasons at paragraphs 20 and 21 below, that the First-tier Tribunal had erred in law in the ways set out in paragraphs 20 and 21 below.

17. I proposed that the Upper Tribunal set aside (quash) the First-tier Tribunal decision for the reasons given in my grant of permission. I proposed that the Upper Tribunal remit to the First-tier Tribunal for re-determination entirely afresh by the First-tier Tribunal.

Submissions after grant of permission

18. Both parties agreed to the Upper Tribunal setting aside (that is to say, quashing) the First-tier Tribunal decision for the reasons given in my grant of permission. The parties also agreed to the Upper Tribunal remitting for determination entirely afresh by the First-tier Tribunal.

Law

19. Paragraph 23 of the Criminal Injuries Compensation Scheme 2012 provides—

“An award will be withheld unless the applicant has cooperated as far as reasonably practicable in bringing the assailant to justice”.

Analysis

20. It is not disputed, and I find, as follows—

- (1) Ms BMC did not receive the notice of hearing informing her of the date on which the First-tier Tribunal hearing would take place. I so find because she told me this, and explained what had happened (paragraph 15 above), and my impression of her from the oral permission hearing was that she was telling me the truth on all of that.
- (2) Ms BMC would have attended the First-tier Tribunal hearing had she known of its date. I so find for three reasons: First, she has engaged thoroughly with these Upper Tribunal proceedings. Second, she appeared motivated to explain to the First-tier Tribunal her fear of supporting a prosecution. Third, Ms BMC even asked my advice about which mode of hearing to agree to if the case was remitted and the First-tier Tribunal were to ask for her preferred mode of hearing. (I explained that choosing telephone or video would not be held against her.) In other words, Ms BMC is clearly keen to attend a First-tier Tribunal hearing.

- (3) If Ms BMC were given the opportunity to explain to the First-tier Tribunal what her fear was and how it affected her, the First-tier Tribunal might accept that the compensation claim should not fail under paragraph 23 of the scheme.

21. It is not disputed, and I find, that there was therefore a material error of law involved in the making of the First-tier Tribunal decision. The error of law is that Ms BMC did not receive notice of the First-tier Tribunal hearing and did not attend that hearing. The error is material for two reasons, neither of which is disputed. First, BMC would have attended the First-tier Tribunal hearing had she received the notice of hearing. Second, what she would have told the First-tier Tribunal at the hearing could have made a difference.

Disposal

22. The parties agreed to remittal to the First-tier Tribunal. I consider that to be the appropriate course.

Conclusion

23. It is for all of the above reasons that I allow this judicial review to the extent of quashing the First-tier Tribunal's decision and remitting to that tribunal.

CASE MANAGEMENT DIRECTIONS

24. I direct as follows—

- (1) The case must be reheard entirely afresh by the First-tier Tribunal.
- (2) The First-tier Tribunal panel which rehears this case afresh must contain no-one who was on the panel which decided the case on 6 March 2024.

Rachel Perez
Judge of the Upper Tribunal
13 May 2025