



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

Case Reference	: CHI/00MR/HNA/2024/0017 HAV/00MR/HNA/2025/0600-0603
Property	: 2,4,5,8 & 9 Hamilton House, 111 Palmerston Road, Southsea, PO5 3PS
Applicant	: Ravinder Laly
Representative	: Rabinder Khalo
Respondent	: Portsmouth City Council
Representative	:
Type of Application	: Appeal against financial penalty Electrical Safety Standards in the Private Sector (England) Regulations 2020
Tribunal members	: Judge N Jutton, Mr Colin Davies FRICS, Ms Jayam Dalal.
Date Decision	: 16 June 2025

Decision

Background

1. This an appeal made by the Applicant in respect of 5 financial penalties imposed on the Applicant by the Respondent pursuant to the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (the Regulations). The penalties are in respect of Flats 2, 4, 5, 8 and 9 Hamilton House, 111 Palmerston Road, Southsea, PO5 3PS (together 'the Property'). The appeal was received by the Tribunal on 29 July 2024.
2. On 30 October 2023 the Applicant served on the Respondent a request made under Regulation 3(3)(c) that the Applicant supply copy electrical reports in respect of each flat at the Property within 7 days. The notice stated that a failure to do so could result in the Respondent issuing a financial penalty under Regulation 11.
3. The Respondent says that the Applicant failed to comply with the said request. Having served notices of intention to issue a financial penalty on 16 November 2023, on 10 January 2024 it served a final notice of a financial penalty in respect of flats 2, 4, 5 and 8 in the sum of £2500 per flat and on 20 January 2024 a final notice in respect of flat 9 also in the sum of £2500. The Respondent reduced the amount of the financial penalty payable for each flat to £1875 on 6 February 2024.
4. Paragraph 5 of Schedule 2 to the said Regulations provides that an appeal against a decision to impose a financial penalty under the said Regulations '*must be brought within the period of 28 days beginning with the day after that on which the final notice was served*'.
5. The appeal was therefore made substantially out of time. Directions made by the Tribunal noted that the appeal had been lodged out of time and provided that the question of whether or not the appeal should be allowed to proceed nonetheless would be addressed by it as a preliminary issue.
6. There was before the Tribunal a bundle of documents running to some 380 pages which included the application, the parties statements of case, witness statements and supporting documents. References to page numbers in this decision are references to page numbers in that bundle. Both parties also filed with the Tribunal skeleton arguments.
7. At the hearing the Applicant was present and was represented by his daughter Ms Rabinder Khalo. The Respondent was represented by Ms Sarah Curtis a Senior Housing Regulation Officer. The Tribunal also heard evidence from Ms Jelena Taylor who was at the material time employed by the Respondent as a Housing Regulation Officer.
8. **The Law**

9. The law is contained in the Regulations. Regulation 3 provides that a private landlord of residential premises must ensure that electrical safety standards are met during any period when the premises are occupied under a tenancy. The landlord must ensure that every electrical installation in the premises is inspected and tested at regular intervals by a qualified person and must obtain a report from the person conducting the inspection and test with the results of the inspection and test and giving the date of the next inspection and test.
10. Regulation 3(3)(c) provides that the landlord must '*supply a copy of that report to the local housing authority within 7 days of receiving a request in writing for it from that authority*'.
11. Regulation 11 provides that where a local housing authority is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under regulation 3, the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach. The financial penalty may be of such amount as the authority imposing it determines but must not exceed £30,000.
12. Regulation 12 provides that the procedure for and appeals against financial penalties are set out in schedule 2 to the regulations.
13. Schedule 2 sets out the procedure to be followed by the local authority before imposing a financial penalty including the service of a notice of intent and the service of a final notice. It addresses the timescales for service of notices and the contents of the notices.
14. Paragraph 4 of Schedule 2 contains provisions allowing a local authority to withdraw a notice of intent or final notice or to at any time reduce the amount specified in the notice of intent or final notice.
15. Paragraph 5 of Schedule 2 provides that a private landlord on whom a final notice is served may appeal to this Tribunal against the decision to impose the penalty; or the amount of the penalty. Paragraph 5(2) states: '*An appeal under this paragraph must be brought within the period of 28 days beginning with the day after that on which the final notice was served*'.
16. Paragraph 5 of Schedule 2 provides that an appeal is to be a rehearing of the local housing authority's decision; but may be determined having regard to matters of which the authority was unaware when it made its decision. On an appeal the Tribunal may confirm, quash or vary the final notice. The final notice may not however be varied so as to impose a financial penalty of more than £30,000.
17. **The Preliminary Issue: Should the Appeal be Allowed to Proceed Out of Time?**
18. The Tribunal reminded the parties at the hearing that this was an appeal against a financial penalty imposed under the Regulations. That

this was not an appeal against a financial penalty made pursuant to the provisions of the Housing Act 2004. The Tribunal invited the parties at the hearing to make submissions as to the authority by which it was contended that the Tribunal had the power to extend the Applicant's time for filing an appeal. The Tribunal asked the parties if they would like a short adjournment to consider the point. Both parties said they would and accordingly the Tribunal adjourned for 30 minutes to allow the parties time to so consider. Upon resumption of the hearing the parties each made their submissions.

19. The Applicant's Submissions

20. Ms Khalo said that she hadn't seen anything of particular relevance in the Regulations. She referred to the Tribunal to the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules). In particular to Rule 6(3)(a). Rule 6(3)(a) she submitted gave the Tribunal power if it were so minded to extend time for complying with any rule, practice direction or direction even if the application for an extension were not made until after the time limit had expired. That it was open she submitted to the Tribunal to apply that provision to extend the Applicant's time for filing its appeal with the Tribunal beyond the 28 day period set out in the Regulations.

21. Ms Khalo explained that the Applicant had suffered a cardiac arrest on 27 January 2024. That he had been very unwell for a considerable period of time thereafter. The final notice dated 10 January 2024 had been received by the Applicant's wife who hadn't understood 'the severity' of it. That the Applicant's son and wife had contacted the Respondent on 6 February 2024 to explain that the Applicant was in hospital with a view to trying to reach a resolution. The Respondent had explained the Applicant's right to appeal to the Tribunal and the need to make an application to appeal out of time which the Respondent had said it would not object to. As such, Ms Khalo said, a delay in filing an appeal was not seen as a 'primary problem' because both sides agreed to the application being made out of time, albeit was down to the Tribunal to make a decision. That she said was a reasonable approach to take. That it was consistent with fairness and common sense. The Applicant had wanted time to reach an understanding and hopefully a settlement with the Respondent and thus avoid making an application to the Tribunal.

22. The Respondent's Submissions

23. Ms Curtis referred the Tribunal to an email dated 29 February 2024 that she sent to the Applicant's son Mr Inderpal Laly, (pages 353 and 354) in which she stated '*I disagree that it is not in the public interest to pursue this, nor will we be withdrawing the notices. You are more than welcome to appeal these notices to the first-tier Tribunal (property chamber)....*'. She went on to provide a link to the Tribunal's website.

24. That Mr Inderpal Laly had responded later the same day asking for further information ‘...*that we need for the appeal*’ (355). Ms Curtis had replied on 1 March 2024 by email answering each of the points raised by Mr Inderpal Laly (355-357). The email contained a link to the government website containing the Regulations. The letter confirmed that the Respondent would not be withdrawing the final notices. The appeal had not been submitted to the Tribunal however until almost 5 months later.
25. **The Tribunals Decision.**
26. The final notices imposing a financial penalty on the Applicant were served on 10 January 2024 in respect of flats 2, 4, 5 and 8 and on 20 January 2024 in respect of flat 9. As provided for by paragraph 5(2) of Schedule 2 to the Regulations any appeal to this Tribunal must be brought within 28 days beginning with the day after that on which the final notice was served being in this case 8 February 2024 and 18 February 2024 respectively. The Applicant’s appeal to this Tribunal was dated 22 July 2024 and received by the Tribunal on 29 July 2024. It was therefore received over 5 months after the date(s) by which it should have been made.
27. There is no provision in paragraph 5 or elsewhere in the Regulations that gives the Tribunal power to extend the period within which an appeal should be filed if it is satisfied that there is a good reason to do so, (it is noteworthy that there is such a provision in relation to appeals relating to remedial action under Regulation 7 and appeals against recovery of costs under Regulation 9, but not in respect of appeals against financial penalties).
28. Rule 6(3)(a) of the Rules does not assist the Applicant. It gives the Tribunal the power to: ‘*extend or shorten the time for complying with any rule, practice direction or direction, even if the application for an extension is not made until after the time limit has expired*’. It does not extend to allowing the Tribunal to amend a time limit set out in an enactment or regulation (and it is difficult to see how it could).
29. A confusion may have arisen because Rule 6(3)(a) is sometimes used in respect of appeals against financial penalties imposed under section 249A of the Housing Act 2004. The appeal process in such matters (as set out in Schedule 13A of that Act) does not contain a time limit for submitting an appeal to the Tribunal. In those circumstances Rule 27 of the Rules has effect. Rule 27 applies where ‘...*no time limit for starting proceedings is prescribed by or under another enactment*’. In such event Rule 27(2) provides that the notice of appeal must be provided to the Tribunal within 28 days after the date on which the notice of the decision to which the appeal relates was sent to the Applicant. If in those circumstances the application to appeal is received after 28 days Rule 6(3)(a) gives the Tribunal power to extend the 28 day period set out in Rule 27(2) if the Tribunal is of the view that it is reasonable so to do. That is because the Tribunal would be exercising a case

management power to extend the time for complying with a Rule (in this case Rule 27). Rule 27 does not apply in this case because there is a time limit for starting proceedings prescribed by or under another enactment namely as set out in Schedule 2 of the Regulations. A prescribed time limit of 28 days.

30. For those reasons the Tribunal cannot extend the Applicant's time for submitting its appeal and accordingly as the appeal was made out of time the application is dismissed.
31. Even if it were the case that the Tribunal did have the power to extend the Applicants time for submitting an appeal it would not have been minded to do so. Clearly the Tribunal would have had regard to the Applicant's medical condition and the effect that would have had on his ability to submit an appeal. However the appeal was submitted over 5 months after the date by which it should have been. It's clear that the Applicants family took over the control and running of the Property on his behalf relatively quickly after he had suffered a cardiac arrest. They entered into correspondence with the Respondent. The Respondent reminded the Applicant's representatives of the right to appeal to this Tribunal not least in the email from Ms Curtis to Mr Inderpal Laly of 29 February 2024. Details of how to appeal and the time limits for doing so were contained within or referred to in the Request for an Electrical Installation Condition Report dated 30 October 2023 (135), in the Notices of Intention to Issue a Financial Penalty dated 13 November 2023 (190-212) and in the Final Notices of a Financial Penalty dated 10 January 2024 and 20 January 2024 (13-25).
32. The Respondent may have indicated that it would not object to an application for an appeal being made out of time but that did not mean that the appeal should be delayed. There was no reason why discussions to try and reach a resolution could not have continued after an appeal had been submitted pending a final hearing. In all the circumstances, even if it were able to do so, the Tribunal would not have been satisfied on the basis of the written and oral submissions made to it that the Applicant had provided a good reason for his failure to appeal within the 28 day period (or for the delay since that time in applying for permission to appeal out of time).
33. **Summary of Decision**
34. The Applicant's application to appeal against the financial penalties imposed on him by the Respondent pursuant to the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 is dismissed.

Judge N Jutton

16 June 2025

Appeals

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.