



**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** :

**Respondent** : Medway Council

**Representative** : Venky Krishnan

**Type of Application** : Appeal against an Improvement Notice  
Housing Act 2004

**Tribunal Members** : Judge C Skinner

**Date of Preliminary  
Hearing** : 22 January 2026

**Date of Decision** : 6 February 2026

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**DECISION ON PRELIMINARY ISSUE**

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## **Summary of Decision**

**a) The Tribunal is not satisfied that the Applicant has provided good reasons for the failure to appeal the Improvement Notice dated 1 May 2024 before the end of the 21-day period required under Paragraph 14(1) of Schedule 1 to the Housing Act 2004.**

**b) The Tribunal is not satisfied that the Applicant has provided good reasons for the failure to appeal the Improvement Notice dated 1 May 2024 between the expiry of the 21 day period required under Paragraph 14(1) of Schedule 1 to the Housing Act 2004 and the date upon which the application was submitted to the Tribunal as required under Paragraph 14(3) of Schedule 1 to the Housing Act 2004.**

**c) Accordingly, the Tribunal dismisses the Applicant's application.**

## **Background**

1. The Applicant is the landlord and owner of 223a Canterbury Street, Gillingham, Medway, Kent ME7 5XB ("the Property"). On 19 November 2024, the Tribunal received an application from the Applicant seeking to appeal an Improvement Notice ("the Notice") dated 1 May 2024 that had been served upon him in relation to improvement works required at the Property.
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 Directions also clearly set out the application submitted related to an appeal against the making of an Improvement Notice. It was not an application to appeal against a Notice of Financial Penalty. The Directions clearly stating at paragraph 16;

*The application that has been submitted is an appeal against the Improvement Notice, the Tribunal repeats, as stated in the previous Directions; **If the Applicant wishes to appeal against a Notice of Financial Penalty, the relevant application form will need to be completed and submitted to the Tribunal with the appropriate fee. Any application would be subject to the relevant time limits to appeal.***

9. Following the hearing on 2 April 2025, the Tribunal issued its Decision on 27 May 2025. The Decision in summary found there was no good reason why the appeal was lodged out of time and therefore the application was dismissed.
10. On 9 June 2025, the Applicant submitted an application for permission to appeal the Decision of the Tribunal dated 27 May 2025 on the basis the Tribunal did not take into account relevant considerations, namely the late submission of a letter dated 17 July 2024 which had been sent from the Respondent to the Applicant, which the Applicant claimed was evidence that the Respondent had suspended the Improvement Notice and as a result there was a procedural defect.
11. On 11 November 2025, the Tribunal granted the Applicant permission to appeal on the basis that the letter dated 17 July 2024 had only been placed before the Tribunal mid hearing and that the parties did not have sufficient opportunity to make submissions on the letter. As a result the Decision dated 27 May 2025 was set aside on the grounds it was in the interests of justice to do so given a procedural irregularity had occurred and it was substantial enough to warrant the matter being reheard.

12. Further Directions were made on 11 November 2025, relisting the matter to be heard on 10 December 2025 for a rehearing of the preliminary issue relating to the application to appeal the Improvement Notice being out of time. That hearing was subsequently adjourned due to the Applicant being unwell and was relisted.
13. The matter was set down for a hearing of the preliminary issue on 22 January 2026 by way of CVP remote video hearing. The hearing was attended by the Applicant, with the respondent being represented by Mr Venky Krishnan. In addition, Mr Michael Coward (Senior Private Housing Technical Officer) and Mrs Corinna Salter (Private Sector Housing Technical Officer) attended on behalf of the Respondent.
14. The lack of mention of any particular document or submission should not be regarded as indicating that it has not been taken into account. The Tribunal has focused on the key issues identified that require determination. In writing this decision the Judge has had regard to the Senior President of Tribunals Practice Direction – Reasons for Decisions, dated 4 June 2024.

### **The Law**

15. Paragraphs 10 and 14 of Schedule 1 to the Housing Act 2004 read as follows:

#### **Part 3 Appeals relating to improvement notices**

##### *Appeal against improvement notice*

10(1) The person on whom an improvement notice is served may appeal to [the appropriate tribunal] against the notice.

##### ***Time limit for appeal***

14(1) Any appeal under paragraph 10 must be made within the period of 21 days beginning with the date on which the improvement notice was served in accordance with Part 1 of this Schedule.

14(3) [the appropriate tribunal] may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

### **The Preliminary Hearing**

16. In advance of the hearing the Tribunal had been supplied with Position Statements from the Applicant and the Respondent along with a bundle

previously submitted in this matter for the original hearing on 2 April 2025 and copies of all relevant letters and emails, including the letter of 17 July 2024 which had been produced during the 2 April 2025 hearing. The Tribunal in reaching its decision on this preliminary matter has considered the content of the same in addition to the submissions made at the hearing.

17. At the beginning of the hearing, the Tribunal clarified the preliminary issue it was being asked to determine. The Tribunal set out the test under Schedule 1, Paragraph 14(3) Housing Act 2004 and explained that would be the focus of the hearing.
18. It remained common ground between the parties, which was confirmed during the hearing by the Applicant, 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.
19. It also remained common ground, again confirmed during the hearing, that there was no dispute that the Improvement Notice had been validly served upon the Applicant, his appointed managing agents Wright & Co and the tenant of the Property which at the date of service of the Notice was a Mr Stroud. The Applicant admitting that he had never disputed that works were required at the Property but strongly arguing that the ability to conduct those works was frustrated by the tenant at the time refusing to allow contractors access and presenting a potential risk to the health and safety of those attending at the Property. It was submitted that risk was due to mental health problems the tenant suffered from which ultimately required his rehoming with the engagement and assistance of the Outreach Mental Health Team at Medway Council.

### **The Applicants Case**

20. The Applicant put forward arguments and submissions that related to the preliminary issue but also made submissions relating to matters that, whilst may have been relevant to the substantive issue of the appeal, were not relevant for the purposes of determining the preliminary issue.
21. The Applicant submitted that when the Notice was served on 1 May 2024, he was receiving treatment for cancer and undergoing a course of radiotherapy. The Applicant had therefore left matters relating to the Notice with his appointed managing agent Wright & Co to resolve. Wright & Co engaged in substantial communication with the Respondent and advised the Applicant matters were being dealt with. The Applicant admitting he had worked professionally with Wright & Co for at least 20 years and he had left matters with them to resolve. The Applicant

confirmed he received updates and liaised with Wright & Co from time to time.

22. The Applicant submitted that the Respondent was kept fully up to date on the action being taken to resolve the issues at the Property identified by the Notice. The Applicant arguing there was no need to attempt to appeal the Notice at that stage as it was felt the Respondent knew of the difficulties the Applicant was having with the tenant. The Applicant further stating he was personally unaware of the 21 day time limit that applied as no one had told him about it but the responsibility for resolving the matters identified in the Notice was being dealt with by Wright & Co and they were the responsible party for the same.
23. When it became clear by June 2024 that safe access to the Property could not be secured due to the tenant's behaviour and the potential risk to the safety and welfare of any contractors attending at the Property, the Applicant and his Agents decided steps should be taken to evict the tenant. This resulted in Wright & Co's letter to the Respondent on 19 June 2024 requesting the Notice be suspended to allow time for the rehoming of the tenant.
24. The Applicant didn't believe it was necessary to appeal the Notice at this stage because the Respondent had not raised any real issue over the steps being taken by the Applicant to resolve the works required by the Notice and further the Respondent hadn't directly explained to the Applicant that a formal appeal should be considered.
25. The Applicant submitted the wording of the letter from the Respondent of 17 July 2024 was clear and unambiguous. It clearly referred to the Notice being suspended and proceeded to arrange a further inspection of the Property to determine what the next steps would be after the tenant had been rehomed. The Applicant submitting a strong reliance was placed upon that letter in the belief its effect was that the Notice had been suspended.
26. The Applicant was therefore disappointed when the Respondent wrote further on 24 August 2024 warning the Applicant they deemed him in breach of the Notice and then wrote further on 28 August 2024, confirming it was their intention to issue a Financial Penalty as a result of that breach.
27. The Applicant submitted written representations on 25 September 2024 in response to the Respondents intention to issue a Financial Penalty. Those submissions were made within the time limits that applied and resulted in a reduction to the Financial Penalty.
28. The Applicant argued that Wright & Co had always engaged with the Respondent promptly and kept the Respondent fully updated on the difficult situation presented by the tenant at the Property and the

- frustration being caused by the tenants conduct that was preventing the works taking place. The Applicant felt the issuing of the Financial Penalty was therefore very unfair, with Wright & Co advising him the Financial Penalty felt disproportionate and the Respondent had no real basis for issuing the same, especially in circumstances where the Applicant claims they had suspended the Notice following the 17 July 2024 letter.
29. The Applicant submitted that no appeal had been considered necessary until this point and that it was the issuing of the Financial Penalty that led to the Applicant considering the possibility of a need to appeal the Notice, given how unfair the Applicant and Wright & Co felt the issuing of the Financial Penalty to be. The Applicant again placing a significant reliance on the effect of the 17 July 2024 letter.
  30. The Applicant confirmed that the reason why the Application was ultimately submitted to the Tribunal on 19 November 2024 was because of the Respondents decision to issue the Financial Penalty and the need to challenge that decision. The Applicant remaining of the view it was disproportionate and unfair in the circumstances. The Applicant submitting that he never disputed the need for the works identified by the Notice to take place but was simply unable to complete those works whilst the tenant remained in occupation.

### **The Respondents Case**

31. In response, the Respondents position was Notice was clear in respect of the timescales by which the remedial works were to be undertaken and clearly provided information on how to appeal the Improvement Notice. The Notice had been served on the Applicant and on Wright & Co as managing agent and service was not in dispute. The Notice contained all details around submitting an appeal and the timescales that applied.
32. The Respondent argued the letter of 17<sup>th</sup> July 2024 was some considerable time after the deadline to make an appeal against the Notice and further a significant amount of time continued to pass where no application to appeal the Notice was submitted to the Tribunal until 19 November 2024 which was approximately 6 months after the Notice was served. This was therefore a significant delay.
33. The Respondent was of the view that the Applicant had not provided any good reason for the failure to appeal the Notice before the end of the initial 21 days period, and whilst acknowledging the Applicant's submission around his poor health at the time, noted that this was the first time his health had been raised as a reason behind his failure to submit an appeal and nowhere previously in these proceedings or within the communications with the Applicant and Wright & Co had this been raised previously.

34. In respect of the reliance placed upon the letter of 17 July 2024 and the reference to the suspended notice, The Respondent claimed the purpose of the letter was to notify the Applicant of a scheduled property inspection on 24 July 2024. The wording “*I write in connection with a Suspended Improvement Notice reference 24/02311/HN39.*” was an oversight and simply a typing error. The letters’ overall purpose was unambiguous in seeking to arrange an inspection of the Property. The letter made no explicit statement or implication that the Notice had been formally suspended.
35. No other correspondence to the Applicant or Wright & Co included the words “Suspended Improvement Notice” and further the Applicant did not refer to or include a copy of the letter within any other statements or communications with the Respondent or within the Tribunal proceedings prior to the hearing on 2 April 2025, with neither the Applicant nor Wright & Co questioning the oversight at any time prior to the hearing or placing any reliance upon it until it’s disclosure at that hearing.
36. The Respondent submitted that the intention of the letter was clear in that it was arranging a date and time for a further inspection and that the reference to the suspension of the notice was clearly an error. This was supported by the fact that in order to legally suspend an improvement notice, they would have to comply with statutory requirements under the Housing Act 2004 and their own operational policy and that would require a formal variation notice to be served upon all parties.
37. The Respondent submitted that in general, the Applicant did not dispute the need for works identified under the Notice at the Property and the main arguments put forward by the Applicant related to the ability to comply with it and views upon the appropriateness of the issuing of a Financial Penalty for non-compliance. These were not arguments that amounted to good reasons for failing to submit an appeal against the making of the Notice within the required timescales.
38. The onus was on the Applicant to establish good reason for the delay to submitting the Application. The Applicant had failed to provide a good reason for either of the relevant periods. It was clear from the Applicant’s Position Statement the good reason claimed relied largely on the wording of the 17 July 2024 letter. If that was case, there was an absence of any credible evidence to support that reliance. There had been no reference to 17 July 2024 letter at any stage prior to the 2 April 2025 hearing. If it was so important and such reliance placed upon it as a good reason for not submitting any appeal, further evidence would have been available.

### **Decision on Preliminary Issue**

39. In *Nottingham Council v Michael Tyas [2013] UKUT 0492*

the Upper Tribunal dealt with a late appeal against an Improvement Notice. The Upper Tribunal stated in relation to the process:

*26. As I indicated when granting permission to appeal, the decision of the RPT is open to a more fundamental objection even than that identified by the Council in its submissions. In their submissions to the RPT no reference was made by either party to the statutory criteria for extending time for appeals against enforcement notices, nor did the RPT direct itself by reference to paragraph 14(3) of Schedule 1 to the Act. The effect of that provision is that after the expiry of the 21 days allowed for bringing an appeal an extension of time may only be granted by a tribunal “if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then I applying for permission to appeal out of time).” The statutory test is focused closely on the reason or reasons for the time limit having been missed.*

*27. It was therefore essential for the RPT to decide whether there was a good reason for the failure to lodge an appeal within the 21 days allowed. That required the RPT first to identify what the reason for the failure was, and then to consider whether that reason was a good reason. It was then necessary to ask the same questions in relation to the period of delay between the expiry of the permitted time for appealing and the date on which the appeal was actually brought.*

40. The Tribunal therefore applies the above when determining this preliminary issue.
41. The Tribunal also refers to a decision made by Dove J in *Al Ahmed v Tower Hamlets LBC* [2020] EWCA Civ 51 on the meaning of “good reason” under section 204 of the Housing Act 1996 which deals with appeals to the Court against decisions by Local Authorities in relation to homelessness. The Tribunal considers the principles on “good reason” established by Dove J are relevant to the issue of good reason in this case.

*11. A number of important points need to be taken into account when approaching the exercise of discretion under section 204(2A)(b) and considering whether in a case where permission to appeal is sought after the 21 day limit there is “good reason” for the failure to bring the claim in time. The first point is that the merits of the substance of the appeal are no part of the consideration of this question. This was made clear by Tugendhat J in *Short v Birmingham City Council* [2005] EWHC 2112; [2005] HLR6 at paragraph 26. Secondly, as concluded by Sir Thomas Morison in *Barrett v The Mayor and Burgesses of the London Borough of Southwark* [2008] EWHC 1568, the phrase good*

*reason “is a phrase in common parlance, which in my judgment, does not need elaboration.” (See paragraph 4 of the judgment). ‘12. As was also observed in the Barrett case, and endorsed by Jay J in the case of Poorsalehy v London Borough of Wandsworth [2013] EWHC 3687, there is no general principle in cases of this kind which fixes a party with the procedural errors of his or her representative, nor is there a general principle which enables a litigant to shelter behind the mistakes of their legal advisers. As Jay J was astute to observe, in particular in paragraph 28 of his judgment, the approach to be taken to the responsibility of a litigant and his advisers must always depend upon the particular facts and the available evidence in any given case. In short, there are no bright lines in deciding whether or not there is a good reason for the delay in bringing an appeal of this kind. All of the factual circumstances have to be carefully examined and scrutinised ...’*

42. The Tribunal firstly has considered if the breach of the 21 day time limit for bringing an appeal under Schedule 1, Paragraph 14(1) Housing Act 2004 has been made out on the evidence and if it has, is the breach a significant one.
43. The parties are not in dispute that the Notice was served on 1 May 2024 and that the Application was submitted to the Tribunal on 19 November 2024. The Tribunal therefore finds as a matter of fact that the Application was lodged outside the 21 day time limit imposed by Schedule 1, Paragraph 14(1) Housing Act 2004 which expired on 22 May 2024.
44. It therefore took the Applicant approximately 6 months to lodge the appeal against the Notice. The Tribunal considers that appropriate weight should be given to time limits that are set out within statute such as this when considering the seriousness of any breach. Whilst paragraph 14(3) of Schedule 1 Housing Act 2004 makes provision for an appeal to be made outside that statutory time limit, that in itself does not take away from the importance of complying with time limits clearly set out with the Act.
45. In this matter, where the Application has not been lodged until some 6 months after the initial statutory time limit expired, the Tribunal finds this is a significant breach of the statutory time limit set out at Schedule 1, Paragraph 14(1) Housing Act 2004.

**Good Reason - Period 1 - 1<sup>st</sup> May 2024 to 22<sup>nd</sup> May 2024**

46. The Tribunal is first required to determine if there is a good reason for the failure to appeal before the end of the 21 day period set out in Schedule 1, Paragraph 14(1) Housing Act 2004.

47. Having carefully considered the evidence of the Applicant and the evidence of the Respondent, the Tribunal finds there is no good reason for the failure to submit an appeal within that 21 day period.
48. The Tribunal finds as of fact that the Notice served on 1 May 2024 contained all the relevant information around the time limits that applied and the requirement to submit an appeal within 21 days from the date the Notice is served. The Notice is clear in this regard and it was served upon the Applicant and the Managing Agent Wright & Co.
49. Wright & Co are a professional managing agent acting on behalf of the Applicant, a landlord of many years standing, in managing the Property. Upon receipt of the Notice, the Applicant and Wright & Co should be aware they have a range of options available to them at that point. The evidence of the Applicant and the Respondent shows that the Applicant and Wright & Co clearly choose to engage with the Respondent and comply with the requirements of the Notice. The evidence does not show any type of challenge or dispute over the decision to serve the Notice upon the Applicant at this stage.
50. The Tribunal heard evidence from the Applicant relating to his poor health at the time the Notice was served. It was submitted that the Applicant was receiving a course of radiotherapy to try and treat a cancer the Applicant was suffering with. The Tribunal is mindful of the fact this was raised for the first time at the hearing and was the first reference to the Applicant's poor health and course of treatment throughout the period of the Tribunal proceedings and throughout the disclosed communications between the parties over the matter. It therefore has not been supported by any evidence beyond the submissions made at the hearing.
51. The submission was not contested by the Respondent, although they did query why it had not previously been raised if it was now being relied upon as a reason for the delay. The Applicant explained that Wright & Co had been appointed as managing agent and they were dealing with matters whilst he was receiving treatment.
52. The Tribunal does not doubt the truthfulness of the Applicant in this regard and accepts no dispute is raised by the Respondent over the Applicant receiving such treatment. However, the Tribunal is also mindful that it had not previously been raised as a reason why an appeal had not been submitted in time and no evidence around the Applicant's health was before the Tribunal. Therefore, the Tribunal attaches limited weight to this submission in respect of it amounting to a good reason on its own.
53. However, The Tribunal does not believe that anything turns on this submission alone, as by the Applicant's own evidence he had appointed and entrusted Wright & Co to administer the management of the Property during this time. The Applicant's evidence was that he had a long standing

and trusted professional relationship with Wright & Co, spanning at least 20 years, possibly even longer. The Tribunal accepts this evidence.

54. The Tribunal accepts the evidence that Wright & Co, as a professional managing agent, were acting on behalf of the Applicant and engaged fully with the Respondent over the Notice, taking steps to manage compliance with the Notice requirements. The Applicant was in contact with Wright & Co and aware of the Notice and steps Wright & Co were taking in relation to it.
55. As a professional managing agent, Wright & Co were responsible for advising the Applicant and taking instructions on how to respond to the Notice. As set out above, they had a range of options available, those options including seeking authority, or advising the Applicant, to appeal the Notice if they felt it appropriate to do so.
56. Both the Applicant and Wright & Co had been served with the Notice, with all relevant information and appeal time limits set out within the same. It was a matter for them to consider what steps to take at that time. The evidence shows clearly they took steps to engage with the Respondent and attempt to comply with the Notice requirements. The Applicants own evidence being that he did not dispute the need for the works identified in the Notice to take place and that he did complete those works as soon as he was in a position to do so.
57. There is no evidence before the Tribunal that shows any conduct from the Applicant or Wright & Co at this stage that could amount to conduct demonstrating an intention to challenge or appeal the Notice nor any evidence to suggest the Applicant's poor health was delaying him from instructing Wright & Co to appeal the Notice. The evidence shows the conduct to be that of engagement and taking steps to try and comply with the Notice. The Applicant argues that engagement with the Respondent over the Notice and complying with it is the good reason why there was a delay in submitting the Application.
58. The Tribunal finds that such conduct cannot amount to a good reason for the purposes of 14(3) and the failure to submit an appeal within the time limits that apply. Any appeal by its very nature would seek to argue that the Improvement Notice itself has been incorrectly made, is unlawful or its terms and conditions are unreasonable. There is no evidence in this matter that at this period of time, the Applicant or Wright & Co are in any way disputing the Notice or its content. There is no evidence to show they wanted to challenge the Notice or were trying to challenge it during this period. There is no evidence the Applicant was frustrated or prevented from making an application either directly or via Wright & Co. The evidence shows it was not until 19 June 2024 that the Applicant suggests the Notice should be suspended.

59. Based on the above reasons, the Tribunal finds on the evidence before it, there was no good reason why the Application was not lodged within the 21 day period required by Schedule 1, Paragraph 14(1) Housing Act 2004.
60. Where the Tribunal has determined that no good reason has been established for the failure to lodge an appeal within the 21 day time limit, there is strictly no requirement for the Tribunal to determine if there is a good reason related to the failure to lodge the appeal within the subsequent period to the 19 November 2024. The requirements of Schedule 1, Paragraph 14(3) Housing Act 2004 stating (***and for any delay since then in applying for permission to appeal out of time***) (emphasis added) indicating both periods require the Tribunal to find good reason for the delay in order to succeed with an application made out of time.
61. However for the sake of completeness, and in case the Tribunal is wrong in relation to its interpretation or findings for the purposes of the first period, this Decision will continue and determine the remaining period.

**Good Reason - Period 2 - 23<sup>rd</sup> May 2024 to 18 November 2024.**

62. The Tribunal was not provided with any further evidence around good reason for the delay between 23 May 2024 and 17 July 2024 beyond the ongoing engagement with the Respondent and attempts being made by the Applicant to comply with the Notice requirements.
63. The Tribunal repeats its findings above that taking steps to try and comply with the Notice and continued engagement with the Respondent over the difficulties encountered with such compliance is not found to be a good reason for the purposes of the delay in submitting any appeal against the Notice.
64. The Applicants evidence at this point shows that the behaviour of the tenant at the Property was making it difficult to comply with the Notice. The Applicant could have submitted an appeal against the Notice at this stage. Instead the evidence shows from the letter from Wright & Co dated 19 June 2024 that the Applicant wished for the Notice to be suspended. The Tribunal finds this is evidence to support the position that the Applicant did not seek to challenge the Notice itself, but sort to suspend enforcement of the Notice for a period of time.
65. From this point in time, the evidence shows the Applicant asking the Respondent to accept the difficulties in complying with the Notice and allow more time for compliance. The Tribunal notes throughout this period, the Applicant could have submitted an appeal against the Notice.
66. The Applicant contends the strongest evidence to support the Application being submitted out of time is the letter of 17 July 2024 and the reference to the Notice being “suspended”. The Tribunal agrees with the Applicant that the wording of this letter suggests the Notice may have been

- suspended following the request made by Wright & Co in their letter of 19 June 2024.
67. The Tribunal does not accept the Respondents evidence that it was an obvious typographical error nor that if there was any doubt around the meaning of the sentence, the Applicant should have queried it with the Respondent.
  68. The Tribunal agrees that to a lay landlord the wording was not an obvious error and could lead to a genuine belief that the Notice may have been suspended at that date. It is not reasonable to suggest the Applicant should have considered the inconsistencies within the letter and reference to various statutory provisions. The simple wording of the letter indicated the Notice was suspended and equally was clear that an inspection of the Property was to follow on 24 July 2024.
  69. The Tribunal finds that the Notice could not have been suspended at that time as a matter of law. The Tribunal accepts the evidence of the Respondent that in order to validly suspend the Notice, compliance with the statutory provisions of the Housing Act 2004 would have been required, along with compliance with the Respondents operational policy, with a formal notice confirming the suspension of the Notice being required and then served upon the parties.
  70. Whilst the Tribunal appreciates the Applicant may not have been aware of that legal process, it does not change the fact that legally to effectively suspend the Notice, compliance with that process would have been required. Therefore, the Tribunal finds the Notice was not legally suspended at that time despite the content of the letter of 17 July 2024.
  71. The Applicant's reliance on the 17 July 2024 letter has to be balanced against the evidence submitted to the Tribunal. The Tribunal finds that no reference to this letter was made by the Applicant until its disclosure midway through the first hearing of this preliminary issue on 2 April 2025.
  72. The Tribunal agrees with the Respondent that if such reliance is to be placed upon the effect of this letter being a good reason for any delay to submitting an appeal, it would have been pleaded in advance. There is no reference to the 17 July 2024 letter and its impact on the Applicant within the Application Form, previous statements of case, nor within any subsequent letters, emails or communications with the Respondent or Tribunal prior to its disclosure at the hearing.
  73. In fact, evidence of the communications between the Applicant and Respondent after 17 July 2024 clearly continues to refer to requests to suspend the Notice and then to challenge its enforcement via the issuing of a financial penalty.

74. From 24 August 2024 at the latest, the Applicant can have been in no doubt that any previously held belief that the 17 July 2024 suspended the Notice was not correct given the Respondent's clear and unambiguous correspondence around the alleged breach of the Notice and the intention to issue a Financial Penalty.
75. Therefore, even if the Tribunal were to take the effect of the letter of 17 July 2024 at its highest, as per the Applicants submissions, it would only amount to a possible argument of good reason for a period of some 38 days within which the Applicant may have argued they had a good reason for not submitting the Application on the basis of a misguided belief that the Notice was suspended.
76. From 24 August 2024 there is no evidence that would amount to a good reason from the Applicant over why an appeal was not submitted. If the Applicant was as reliant on the 17 July 2024 letter and its effect to the extent as is now claimed, they should have submitted the appeal promptly at this point. Instead it still took more than 2 months before the Application was submitted.
77. The Applicant suggests again that the good reason for that delay is down to ongoing communications with the Respondent over the difficulties experienced in trying to rehouse the tenant which in turn would allow the Applicant to then commence works at the Property. The difficulty the Applicant faces is that in light of the Respondents consistent position over the intention to enforce the alleged breach of the Notice, that continuing communication does not in the Tribunal's view amount to a good reason for not issuing the Application more promptly.
78. There is again no evidence from the Applicant to support a position that shows they are challenging the Notice itself, the evidence clearly showing the real challenge was to the Respondents decision to take steps to enforce the alleged breach of the Notice. There is no evidence to show the Applicant was seeking to appeal the Notice or that they were in some way prevented from lodging the Application.
79. The Tribunal is satisfied that the evidence set out by the letters and communications between the parties clearly shows that from 24 August 2024, the real challenge from the Applicant is the threat of, and subsequent issuing of, the financial penalty. The Applicants own evidence confirms that was the ultimate reason that resulted in this Application being made. In letters of 2 October 2024 and emails dated 30 and 31 October 2024 from the Applicant to the Respondent, the content of those communications make direct reference to challenging the enforcement of the financial Penalty and seeking to appeal the same.
80. The Tribunal therefore finds that does not amount to a good reason for the purposes of this Application being made out of time, where this

Application is specifically about the making of the Notice itself and not its enforcement.

81. The Tribunal finds that for the majority of the second period, which is approximately 180 days, the evidence provided by the Applicant does not on balance amount to a good reason for the delay in submitting the Application.
82. Finally, the Tribunal has also stepped back and considered the overall prejudice to the parties that stem from the significant breach and the lack of good reason for the delay and whether any prejudice that could be suffered as a result of dismissing the Application might amount to a good reason that would mean the Tribunal should allow the Application to proceed even though it was out of time and the Tribunal has not found any good reason for the delay within either applicable time period.
83. The Tribunal finds on the evidence of the parties that the serving of the Notice and the content of it was not ever really challenged and the Applicant accepted the works set out within it were required and agreed they would be done. There is no dispute that the Notice was appropriate given the Property condition at the time the Notice was served. Therefore, the prejudice to the Applicant appears to not be significant given the Applicant is one that seeks to appeal the making of the Notice. The prejudice to the Respondent may be more so, given the length of time that has passed since the Notice was served, were the Tribunal to now allow the Application to proceed out of time.
84. The Tribunal finds the real challenge remains to the enforcement of the Notice, the Respondents decision making over enforcing the Notice and the issuing of the financial penalty. That is an entirely different appeal to the current Application. It involves different legal tests and requires different considerations from the Tribunal. This was clearly highlighted by the Tribunal in its earlier Directions orders. The Applicant has chosen to pursue this appeal and has not to the Tribunal's knowledge applied to appeal the financial penalty. That is of course entirely a matter for the Applicant.
85. For the above reasons, the Tribunal finds the breach of Schedule 1, paragraph 14(1) Housing Act 2004 to be significant with no good reason for the delay in submitting the application out of time. The Tribunal further finds there was no good reason for the failure to submit the appeal for the subsequent period of time thereafter for the purposes of Schedule 1, paragraph 14(3) Housing Act 2004.
86. As a result, the Tribunal dismisses the Application as being out of time.

### **RIGHTS OF APPEAL**

87. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
88. 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.
89. 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.
90. 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.