FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/00LC/HNA/2025/0618
Property	**:**	17 Cameron Close, Wayfield, Chatham, ME5 0DD
Applicant	**:**	MIEM Ltd
Representative	**:**	Graceland Solicitors
Respondent	**:**	Medway Council
Representative	**:**	
Interested Persons	**:**	Mr & Mrs Gwunireama (Landlords)
Type of Application	**:**	**Appeal against a financial penalty** - Section 249A & Schedule 13A to the Housing Act 2004
Tribunal Member	**:**	Judge J Dobson
Date of Directions	**:**	14th January 2026

DECISION

Summary of Decision

1. The Tribunal declines to exercise its discretion so as to extend the time provided in rule 27 for the application to be sent or delivered to the Tribunal.

2. The Applicants' appeal against the financial penalty is dismissed.

Background

1. The Tribunal received an appeal from the Applicant against a financial penalty made under section 249A of the Housing Act 2004. The application was initially received by the London Property Tribunal on 15 July 2025 and forwarded to the Southern Tribunal on 31 July 2025.

2. The Notice of Financial Penalty is dated 23 May 2025.

3. The Applicant stated that it is or was a tenant, and that the Applicant rented the property out as a 1 bed holiday flat.

4. Directions were issued dated 13th December 2025 which included the following:

> **"Time Limits**
>
> Paragraph 10 of Schedule 13A of the Housing Act 2004 does not specify a time limit for the appeal of a Financial Penalty to the Tribunal. However, Rule 27 of the Tribunal Procedure Rules 2013 states that:
>
> > Where the notice of application relates to a right to appeal from any decision (including any notice, order or licence), the applicant must provide the notice of application to the Tribunal **within 28 days** after the date on which notice of the decision to which the appeal relates was sent to the applicant.
>
> 5. The Final Notice to issue a Financial Penalty is dated 23 May 2025 and the application was initially received on 15 July 2025. The application, therefore, appears to have been received out of time."

6. The Tribunal invite the parties to make representations as to whether time limits had been adhered to. It was added that if the Tribunal is satisfied that the Applicant has provided good reasons for the failure to appeal before the end of 28 days, it can decide to grant an extension of the time limit beyond 28 days (in accordance with Rule 6 of the Tribunal Procedure Rules 2013 and its overriding objectives set down in Rule 3 of the said Rules). The Directions also explained that if the Tribunal was not satisfied it may dismiss the claim.

7. There are two important matters to add to the preceding paragraph. The first is that an application to appeal an Improvement Notice can only be

permitted to proceed out of time if the applicant demonstrates a good reason pursuant to statutory provisions- and there the statute prescribes the time for the application subject to extension of that for a good reason. However, for other late applications the Tribunal has the wide discretion provided by rule 6 and other rules within The Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013 ("the Rules"). The statute does not set a time limit, still less set a test to be met of the time limit is not complied with. It is the latter situation which applies in this instance. Paragraph 10 of Schedule 13A to the Act provides that a person may appeal to the Tribunal and adds nothing more.

8. The other matter is that if the Tribunal determines that the application may no proceed late, necessarily the application is dismissed as the Tribunal has no jurisdiction to hear it.

9. Directions were given as follows:

> "The Applicant shall by 27 November 2025 send by email to the Tribunal and the Respondents their representations and any supporting evidence with the reasons as to why the application was made out of time.
>
> The Respondent shall by 11 December 2025 send by email to the Tribunal and to the Applicant's representative any representations and any supporting evidence in reply to the Applicant's submissions as to the reasons why the application was made out of time.
>
> The Applicant may by 18 December 2025 send to the Tribunal and the Respondent a reply to the Respondent's comments."

10. The Applicant did not provide any representations by the time permitted. Nor did the Applicant respond to the Respondent's representations. The Respondent did make representations in a 3- page document dated 10th December 2025, which set out the test said to be applicable and other relevant matters, although necessarily could not comment on the reason for the late application or any other points which the Applicant might have made in the absence of the Applicant complying with the Directions and providing those. I have taken account of those representations.

The Hearing

11. There was a delay in the start of the hearing due to technical problems experienced by the Tribunal. The hearing therefore commenced approximately 20 minutes late. At that point, the only attendee was Mr Coward of the Respondent.

12. I therefore considered rule 34 in respect of proceeding in the absence of a party and determined that both limbs of the test had been passed.

13. Mr Coward was explaining that the Respondent relied upon its written submissions and there was nothing he proposed to add to those when Mr Nwosu, a director of the Applicant, joined the hearing.

14. I explained the, limited, matters he had missed and sought to clarify that he was in possession of the Respondent's documents, notably the submissions dated 10th December 2025. It is right to say that the answer to that was not made clear, although it was apparent to me that Mr Nwosu understood the nature of the hearing.

15. There was a good argument for not permitting Mr Nwosu to advance submissions about the late application given the failure of the Applicant to provide written ones as directed. That is not least in light of the case management decision of the Regional Judge dated 11th December 2025 in response to the Respondent's application to bar the Applicant in which the Judge decided not to bar the Applicant from participating at all but did bar the Application from adducing evidence as to why the application was late.

16. Nevertheless, on balance and with some caution I did permit Mr Nwosu to address me beyond what would strictly have been submissions on the evidence which could be relied upon and in terms which strayed into evidence. In part that reflected the difficulty of identifying whether submissions would do so until they had been made and in part because Mr Nwosu had responded to my enquiry about documents by referring toa breakdown in communication between the directors of the Applicant and so I was already aware of that point. In the event, insofar as Mr Nwosu ventured into matters of evidence, they did not assist the Applicant when the relevant discretion was exercised.

17. As to the reasons for delay, Mr Nwosu referred to the breakdown in communication with the other director, who he said had the relevant evidence. He said that had prevented instruction of the solicitors who had filed the application for the Applicant. Mr Nwosu also denied in response to it being noted that the original application to the Tribunal contained his name, that he had signed or completed the form. He could not say why the form was not lodged sooner back in summer 2025, other than saying that the other director was not responding to contact or dealing with matters.

18. On that note, it merits mention that the solicitors had informed the Tribunal that they lacked instructions but had not made a case management application asking to be removed as the representative of the Applicant. Hence, they remained and remain as such. Save for the lack of instructions, there was no explanation for their lack of attendance at the hearing.

19. Mr Nwuso explained more generally that the Applicant company rented the Property from the landlord- whether by way of a tenancy agreement or a lease was not clear. He said that the landlord had told the Applicant that it could not undertake any work to the Property and they would be in trouble if they did. He said that the problem with the Property had been long-standing and long before their involvement. In effect it was said that the Applicant could not comply with the Improvement Notice for that reason.

20. Mr Coward added a few short comments, including observing that the Applicant was in control of the premises. As to whether he meant in control as defined in the Act or in a practical sense was not clear.

Consideration

21. I considered such submission as Mr Nwosu was able to make and I have considered the detailed written submissions of the Respondent.

22. Rule 27(1), which immediately proceeds the provision quoted in the Directions makes clear that the rule applies where no other time limit for starting proceedings is prescribed.

23. Rule 6 of the Rules says:

> "(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.
> (2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.
> (3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may—
> (a) 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;"

24. Rule 3 of the Rules provides the following:

> (1) The overriding objective of these rules is to enable the tribunal to deal with cases fairly and justly
> (2) Dealing with a case fairly and justly includes
> (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resource is of the parties and of the Tribunal;
> (b) avoiding unnecessary formality and seeking flexibility in the proceedings
> (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
> (d) using any special expertise of the Tribunal effectively and
> (e) avoiding delay as far as compatible with proper consideration of the issues
> (3) The Tribunal must seek to give effect to the overriding objective when it:
> (a) Exercises any power under these rules; or
> interprets any rule or practice direction."

25. I realise that I have started with the highest- numbered rule and worked backwards but I hope the logic of that will become apparent.

26. It is important to identify that the Respondent contended a delay by the Applicant of 40 days. That was plainly premised on the date on which the Applicant's application reached this Region of the Tribunal. On the basis of the last date for the appeal being filed being 20th June, receipt by the Tribunal on 30th July would amount to a delay of 40 days.

27. 20th June was the last date on the basis that the rule requires the appeal within 28 days of the date the notice is sent. That is different from the date it was received. It is right to say that there was no specific evidence of the notice being sent on the day of its production but that is the most likely event and so I am content that the notice was sent on that date on the balance of probabilities in the absence of any contrary evidence.

28. However, the application was actually filed on 15th July with the London Region. I therefore adopt that date, such that the delay was 25 days. The relevant application form identifies the correct Region for different local authority areas and so it ought not to be unduly difficult to send an application to the correct Region. Nevertheless, the rule provides for an application being filed with the Tribunal and does not make any reference to any specific Region being required.

29. The effect of a late application is that, unless the Tribunal exercises its discretion in favour of the Applicant, that the application cannot proceed. The sanction for failing to file in time is therefore that the application is dismissed.

30. In order to proceed late, the Applicant effectively seeks relief from the effects of that sanction. I say effectively because the applicant has made no such application. Nevertheless, in determining whether to permit the application to proceed late, the Tribunal is in effect considering whether there should be such relief. That engages the well- known (at least amongst practitioners) Court of Appeal judgment in *Denton v White* (and other cases) [2014] EWCA Civ 906 and in particular the judgment of the majority of the Court- the Master of the Rolls and Vos LJ- given in that.

31. *Denton* does not apply perfectly to this situation. It is a decision made applying the Civil Procedure Rules (the "CPR") and not the Rules i.e., of the Tribunal. That has relevance because comments made were directed towards the wording of the CPR and, rather inevitably, not towards the wording of the Rules. The decision is also directed towards a failure to comply with a requirement within the course of an ongoing case. It was not directed towards the time limit for instituting proceedings in the first place.

32. Nevertheless, I accept that the Upper Tribunal has made clear on a number of occasions that this Tribunal should apply the rationale in Denton by analogy. That includes the Land Chamber's decision in *Simpsons Malt v Jones* (and other cases) [2017] UKUT 460 (LC), an appeal from a decision of the Valuation Tribunal for England, which is a different Tribunal to this one but where the appellate tribunal is the same, and the decision in *Haziri & Qela v LB Havering* [2019] UKUT 330 (LC) specifically referred to on behalf of the Respondent. The latter referred to a judgment of the Supreme Court in *Global Torch Ltd v Apex Global Management Ltd (No 2)* [2014] UKSC 64, in which it was said that "the strength of a party's case on the ultimate merits …….. is generally irrelevant when it comes to case management issues".

33. In addition, the Supreme Court in *BPP Holdings Limited v Commissioner for Her Majesty's Revenue and Customs* [2017] UKSC 55, which is another commonly- referred to case but not cited by the Respondent, it was said by Lord Neuberger, whilst acknowledging that the CPR did not apply to Tribunals:

> "In a nutshell, the cases on time-limits and sanctions in the CPR did not apply directly, but the tribunals should generally follow a similar approach."

34. Although that case was not mentioned, I consider that there is nothing controversial in the quoted comment and nothing about which the parties ought to have the opportunity to make any submission.

35. Hence, I do apply the rationale in Denton, with some limited modification to reflect the Rules and the position in this particular set of proceedings.

36. I am also aware in broad terms of various judgments of the higher courts which have applied Denton to various situations, whether by the High Court at first instance or in appeals against decisions of the County Court. However, none were referred to by the parties and neither did I refer the parties to any. Given that these proceedings relate to the Rules to be applied by this Tribunal and none of the Court decisions did, I do not consider any could have added much to Denton itself for these purposes.

37. I also note that the Respondent has relied upon the judgment of the Upper Tribunal in *Pearson v City of Bradford MDC* [2019] UKUT 291 (LC) which explained that the Tribunal has an unfettered discretion pursuant to rule 6 to extend or shorten a time limit, so long as it does not exceed the bounds of a reasonable exercise of discretion.

38. Denton explained that it "clarified and further explained" guidance previously given by the Court of Appeal in a previous judgment, *Mitchell v News Group Newspapers Ltd* [2013] EWCA Civ 1537, which had been the subject of some criticism for its effects and perceived harshness. It was considered in *Denton* that *Mitchell* had been "misunderstood" and was being "misapplied". It was explained that a Judge should address an application for relief from sanctions in 3 stages. I adopt those 3 stages in applying Denton by analogy and take each stage separately.

The First Stage

39. In respect of the first stage of the test in *Denton*, the question is the seriousness and significance of the default in compliance with, in this instance the Rules.

40. The first question in respect of that is whether the seriousness and significance is to be considered solely or partially with regard to the amount of delay caused, whether that be 20 days or something in the extra few weeks reflecting the likely additional time to a final hearing if

the applications are able to proceed and directions are given now as compared to 13th December 2025.

41. In *Haziri* the Upper Tribunal had agreed that a failure to meet a 28- day deadline by 12 days was serious or significant, given that it represented a significant proportion of the time allowed to appeal. I agree that by that criteria, the delay in the making of the Applicants' applications was also serious and significant. The period of delay is higher in proportion to the 28- day period in which the applications to the Tribunal were required to be sent or delivered.

42. That said I consider that the 20- day period is not the most relevant point in relation to seriousness and significance. The month or so delay in progress of the case is of somewhat more relevance. However, I consider that there is an at least equally relevant aspect.

43. I consider that the serious and significance is primarily about the additional Tribunal administration and hearing time and other resources involved and about the additional resources and time for the parties. If the Applicants' applications had been made in time, there would of course have been no need to consider whether the application should be permitted to proceed out of time and there would have been no requirement for written submissions on the matter and then attendance by the Respondent at all.

44. Equally, the Respondent would not have been involved in any other work in relation to the application, nor have needed to go to the expense of instructing an advocate or engaged in any time related to that. The scarce public resources of concern in *Denton*- and which have not noticeably improved since, indeed the opposite- are also relevant in the context of the local council Respondent.

45. Likewise, and even more significantly, the Tribunal would not have been required to devote precious hearing time to hearing the application and instead could have used that session for other matters requiring hearing. Judicial time would not have been required to hear the application nor for preparation- in considering the application documents, the written submissions, and the case law bearing on the approach to be taken for the hearing- nor in providing this Decision.

46. That is several hours of judicial time which have been required to be spent and which could otherwise have been utilised on other matters and need not have been spent on this task.

47. Having set out all the above it will come as no surprise that I determine that the effect of the Applicants' default was serious and significant.

48. Whilst the judgement in Denton explains that if the breach was not serious or significant, any relief will usually be granted and it should not be necessary to move to stages 2 and 3, in the event it is necessary to move to those stages.

The Second Stage

49. At this stage, I need to consider the reason for the default. I need to identify whether or not that was a good reason.

50. The Court of Appeal explained in *Denton* that this stage did not derive from the wording of the CPR as applicable in that case, although it said, "but it is nonetheless important particularly where the breach is serious or significant. The court should consider why the failure or default occurred".

51. Effectively, the Applicants' case had to be that there was a good reason. Mr Nwosu was invited to explain the reason, hence the comments made by him in the hearing as set out above.

52. Mr Nwosu was able to offer little as to the reason for the delay. He did not know. As to when the Applicant first sought to do anything in response to the Notice, as to when legal advice was sought and otherwise why there was the gap beyond 28 days between the sending of the Notice and the filing of the application were all matters about which no information was provided. On the basis of Mr Nwosu's comments, the other director was taking steps to deal with matters because he dealt with the completion of the form. In contrast, it seems that Mr Nwosu did not do anything to apply to the Tribunal on the basis that his name on the form which seemed to indicate him dealing with the matter was not placed there by him. At best there was a communication issue between the directors of the Applicant of uncertain practical effect.

53. Internal issues do not provide a good reason. Nothing else did. Hence, even on the basis of such evidence as was offered and on considering that notwithstanding the previous Directions, I am not therefore satisfied that there was a good reason for the late application.

The Third Stage

54. I consider that up to this point, the findings of fact and the determinations have been relatively simple. I now reach the stage considering the other relevant factors and determining the impact of those on whether or not the time for the Applicants to apply to the Tribunal should be extended to include the date in which they did so. I note that in *Denton* Judges are cautioned against both an unduly draconian approach and an unduly relaxed one which fosters a culture of non- compliance. Both are said to be unreasonable. I note that carefully and that a nuanced approach is required but also that a culture of compliance was aimed at, avoiding satellite litigation.

55. There are two matters said to be of "particular importance" at stage 3 of the test laid out in *Denton* and should be given "particular weight". Those are stated as "(a) the requirements that litigation should be conducted efficiently and at proportionate cost; and (b) the interests of justice in the particular case". That said, in *Denton* it was explained that the two factors did not have the "paramount importance" stated in *Mitchell*. So, it was not the correct

approach to give other factors very little weight but equally the fact that the two elements were singled out for mention in the CPR was significant.

56. It will be appreciated that those two matters are ones specifically identified in rule 3.9 the CPR and do not appear in the Rules. I consider the matters are ones which ought to be given consideration within the wide circumstances of the case but that some caution is needed against giving them the specific particular importance which would apply under the CPR in which they are specifically mentioned.

57. That said, both are obviously relevant. The interests of justice in particular do not need stating as a factor for them to be at the heart of what the Courts and Tribunals do. It would be difficult to make a proper determination in this instance without having regard to the interests of justice.

58. Nevertheless, the Rules as quoted above states that the over-riding objective is to deal with cases "fairly and justly". That is in substance the exact same as considering the interests of justice. It is difficult to identify anything which is more obviously in the interests of justice than dealing fairly and justly. I make clear that I have given that very careful consideration.

59. The Rules have different provisions which do not state the exact words of (a) in the exact order. However, they amount to very much the same thing as might be expected.

60. In the over- riding objective expressed in rule 3, it is said, as quoted above, that dealing fairly and justly includes:

> "dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resource is of the parties and of the Tribunal …… and avoiding delay as far as compatible with proper consideration of the issues."

61. Consequently, I determine that the Rules require me to give matters akin to factors (a) and (b) significance, although not "particular importance" as such.

62. It is abundantly clear from the fact of the additional hearing and all of the work related to it, that dealing with the appeals proportionately and avoiding delay and any other matter which is broadly equivalent to conducting litigation efficiently is not assisted by the need to make determinations such as these. Indeed, the whole need to consider applications to proceed out of time goes against promoting the proportionality of dealings and timely and cost- effective proceedings. It not only adds to time spent but also to timescale.

63. The effect of the breach is not just relevant at the First Stage but as identified in *Denton* is also relevant in the Third Stage. So, too the explanation. Having already explained those effects above, I do not seek to repeat them. It will be appreciated that they weigh in the

considerations at the Third Stage and go against not for extending time for the appeals.

64. The same can be said in relation to more widely encouraging compliance with the Rules. The Rules are very clear about the timescale in which applications may be submitted where is no provision by or under an enactment.

65. I identify that if the Applicants cannot proceed with their appeals, there is arguably something of a windfall to the Respondent- it avoids the need to respond to the substantive application and any risk that the financial penalty might have been reduced or quashed. However, given the nature of the situation, I do not consider that the Respondent can be criticised as acting opportunistically for opposing these applications or that any advantage which may accrue to the Respondent ought to carry much weight in the context of the other considerations in this instance.

66. The obvious and substantial problem for the Applicant is not just such of the matters above as properly weigh against it- and as explained not all should be so weighed- it is that it has failed to identify any other considerations which go more than very modestly in its favour. If it could have done, it is at least possible that the weight may have been in favour of the appeals being permitted to proceed, so by the time being extended. Without that, the weight is very much against it.

67. I consider that the very modest matters in the Applicant's favour are significantly outweighed by the weight against arising from the importance of proceedings being able dealt with proportionately, cost-effectively and without delay. I determine that at the Third Stage taken in isolation, the balance is against granting relief from the effect of the time limit in rule 27 and extending the time to apply.

Conclusion

68. That leaves not only the default which is serious and significant, and which was not for a good reason, but also a default where the relevant considerations at the Third Stage also weigh against it.

Decision

69. I return to the fact that the decision to be made is not specifically one in relation to relief from sanction as such. Rather, the decision is about when time ran and expired and also, as the Tribunal has dealt with matters, whether to extent time for the making of an application to the Tribunal by each of the Applicants pursuant to rule 6(3).

70. I find that time to apply had expired.

71. I apply the above findings and conclusions and determine that it is not appropriate to exercise discretion to extend time. I refuse to exercise case management powers pursuant to rule 6 of the Rules to extend the time for complying with rule 27.

72. The Applicants may not pursue their applications out of time.

73. There is therefore no appeal which the Tribunal is able to consider. The Tribunal has the jurisdiction specifically granted to it and no jurisdiction otherwise. There is no jurisdiction here. It necessarily follows that is the end of the appeals, which are dismissed.

74. The Applicants shall bear the fees for their applications to the Tribunal, there being no basis for any other outcome of that.

75. I make no decisions in respect of any costs incurred by either side. If a party wishes to apply for any costs of the proceedings, accepting the limits on the powers of the Tribunal pursuant to the Rules, a party may do so within 28 days and directions will then be given in respect that.

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.