



**Case Reference PEN/2022/0075**

[2022] UKFTT 00264 (GRC)

**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(PENSIONS REGULATION)**

Heard: by determination on the papers

Heard: 28 June 2022

Decision given on: 28 June 2022

Before: Judge Alison McKenna

Between:

**KERNOW MERCHANT SERVICES LIMITED**

**Appellant**

**- and -**

**THE PENSIONS REGULATOR**

**Respondent**

**DECISION**

**The appeal is struck out under rule 8 (2) (a) of the Tribunal's Procedure Rules**

**REASONS**

1. The Applicant seeks to appeal against a Fixed Penalty Notice dated 5 January 2022 and an Escalating Penalty Notice dated 5 February 2022.
2. The Appellant has submitted a Notice of Appeal seeking to raise a reasonable excuse for its accepted default. The Respondent submitted that the Notice of Appeal should be struck out under rule 8(2)(a) of the Tribunal's Rules, as the Tribunal has no jurisdiction to determine it in the circumstances. The Appellant has made no submissions on the proposed strike out, although it was invited to do so as required by rule 8 (4).

3. Parliament has provided that this Tribunal only has jurisdiction to consider appeals against financial penalties imposed by The Pensions Regulator when certain pre-conditions have been met. These include a requirement for The Pensions Regulator to have conducted a review. In this case, it is undisputed that there has been no such review.
4. I conclude that the necessary conditions for referral to the Tribunal under s. 44 (2) of the 2008 Act have not been met in this case. The Notice of Appeal must therefore be struck out under rule 8 (2) (a) of the Tribunal's Rules, because the Tribunal has no jurisdiction to determine it. I have no discretion to do otherwise in the particular circumstances of this case.
5. Accordingly, I now strike out the Notice of Appeal and these proceedings are concluded.

**(Signed)**

**JUDGE ALISON MCKENNA**

**DATE: 28 June 2022**

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