



NCN: [2024] UKFTT 60 (GRC)

Case Reference: PEN-2023-0260

**First-tier Tribunal
General Regulatory Chamber
Pensions Regulation**

Before

TRIBUNAL JUDGE BUCKLEY

Between

A1 COLLISION LTD

Appellant

and

THE PENSIONS REGULATOR

Respondent

JUDGE BUCKLEY

**Sitting in Chambers
on 16 January 2024**

DECISION

1. The appeal is struck out under rule 8(2)(a) of the Tribunal Procedure (First Tier) (General Regulatory Chamber) Rules 2009.

REASONS

2. The Regulator submits that the tribunal has no jurisdiction because the conditions in section 44(2) of the Pensions Act 2008 are not satisfied because no review of the escalating penalty notice has been carried out. No review was

carried out because the application for a review was submitted out of time. The Regulator applies for the appeal to be struck out on the basis that the tribunal has no jurisdiction in relation to the proceedings.

3. The employer was given the opportunity to respond to the strike out application but no representations were received.
4. The fixed penalty notice was issued on 8 September 2023. The Respondent received a telephone call from Mr Alex Antinoro on behalf of the employer on the 19 September 2023. Mr Antinoro explained that the employer was compliant and the Respondent's email address was provided so that this could be evidenced, and a review request could be submitted. The review request was received on 12 October 2023.
5. Under regulation 15(1) of the Employer's Duties (Registration and Compliance) Regulations 2010 the period within which an application to review a notice may be made is 28 days, starting from the date a notice is issued to a person.
6. The employer's application for a review was out of time and the Regulator did not deem it appropriate to undertake a review on its own initiative.
7. This not an appeal to which **Philip Freeman Mobile Welders Ltd v The Pensions Regulator** [2022] UKUT 62 (AAC)) applies because the employer is not disputing receipt of the notice. In those circumstances there can be no argument that the time limit for applying for a review had not begun to run, as there was in **Philip Freeman**.
8. In those circumstances the tribunal has no jurisdiction to hear the appeal. The tribunal has no power to dispense with the requirement for a review in the interests of justice, nor does it have power to consider an appeal against the Regulator's decision not to carry out a review.
9. On that basis I strike out the appeal under rule 8(2)(a).
10. It is not appropriate in these circumstances for me to exercise my power under rule 5(3)(k)(i) to transfer the proceedings to another court or tribunal.

Signed Sophie Buckley

Judge of the First-tier Tribunal
Date: 19 January 2024