



Neutral citation number: [2023] UKFTT 00957 (GRC)

Case Reference: EA/2021/0354

**First-tier Tribunal
General Regulatory Chamber
Information Rights**

Heard: on the papers in Chambers

**Heard on: 3 November 2023
Decision given on: 13 November 2023**

Before

TRIBUNAL JUDGE HAZEL OLIVER

Between

CHRIS SPIROPOULOS

Applicant

and

INFORMATION COMMISSIONER

Respondent

Decision:

Having considered afresh the Registrar's decision of 17 March 2022 to strike out these proceedings, the proceedings are struck out under Rule 8(3)(c) because there is no reasonable prospect of the Appellant's case, or part of it, succeeding.

REASONS

1. There was an application to the Tribunal by the Information Commissioner (the "Commissioner") to strike out these proceedings as having no reasonable prospect of success.
2. The proceedings were struck out by the Registrar in a decision dated 17 March 2022. The Appellant made an application for that decision to be considered afresh by a Judge on 5 April 2022, pursuant to rule 4(3) of the Tribunal Procedure Rules.

The application was stayed pending an outstanding appeal concerning a similar request, under appeal number EA/2020/0347. The decision in that case was promulgated on 27 March 2023.

3. Judge Neville made case management directions on 4 April 2023 giving the parties 14 days to make any further submissions arising from that decision on whether these proceedings (or any part of them) have a reasonable prospect of success. I have not seen any further submissions from the parties.
4. Under Rule 8(3)(c) of the *Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009*, the Tribunal may strike out the whole or part of the proceedings if the Tribunal considers there is no reasonable prospect of the Appellant's case, or part of it, succeeding.
5. The request in the current appeal is:

'I would like to receive a copy of your GoldFax logs (08707394144) showing transmissions received between 23/09/2020 and 25/09/2020 and relating to claim D97YM323. A copy of the actual document transmitted will do, as well as any other document providing the same information as the logs. This is a request for information on the logs rather than the logs themselves.'

6. The Commissioner assigned the complaint reference IC-78206-R2B9 and investigated the matter issuing a Decision Notice dated 3 November 2021. The Commissioner concluded that on the balance of probabilities the MOJ did not hold the requested information and set out the reasoning. As noted by the Registrar, the Commissioner made enquiries of the MOJ, and the MOJ provided a response dated 2 September 2021. The Commissioner conducted an investigation and the MOJ responded to that investigation. The Commissioner made a decision on the balance of probabilities that the MOJ did not hold the requested information, based on this investigation. The Registrar struck out the appeal on the basis there was no error of law in the Commissioner's decision.
7. The Appellant's application for the Registrar's decision to be taken afresh says that the decision is nonsense because "The information requested is held in the case file, amongst other places".
8. In his response to the appeal, the Commissioner says that he contacted the MOJ again about the searches of the given case reference number. The MOJ confirmed that they have checked the case file, it relates to the Appellant, and nothing has been found within the requested date range in that case file. This addresses the issue raised by the Appellant about the information being held in the case file, and provides yet further confirmation that the requested information is not held. The Appellant has not given any explanation as to how or why the Tribunal would be in a position to make a different finding on the balance of probabilities.
9. The Appellant also says that the request in this case is "basically identical" to the information requested by him in case EA/2020/0347.

10. Appeal number EA/2020/0347 involved the following request to the MOJ, made on 23 August 2018:

'I would like to receive a copy of your GoldFax logs (08707394144) showing transmissions received for the following periods and relating to claim B30YP198. A copy of the actual document transmitted will do.

- 1. 12/7/16 between 22:00 and 23:00*
- 2. 24/7/16 between 21:00 and 23:00*
- 3. 30/10/16 between 13:00 and 14:00*
- 4. 14/02/17 between 20:00 and 22:00*
- 5. 04/12/17 between 24:00 and 01:00*
- 6. 11/7/18 between 19:00 and 20:00*
- 7. 22/8/18 between 22:00 and 23:00*
- 8. 09/9/18 between 17:00 and 18:00'*

11. This appeal was dismissed by the Tribunal as they were satisfied that, on the balance of probabilities, the MOJ does not hold information sought within the scope of the request. The Appellant sought to appeal to the Upper Tribunal. On 26 June 2023 Upper Tribunal Judge Mark West refused permission to appeal and recorded the fact that the application was totally without merit.

12. The Tribunal in that case made a clear finding that the requested information was not held, and permission to appeal this decision was refused. The Appellant says that the current case is the same as that case. He not shown any reason why the outcome in the current case would be any different.

13. I therefore find that there is no reasonable prospect of the case, or any part of it, succeeding. The proceedings are struck out.

Signed: *Judge Hazel Oliver*

Date: 8 November 2023