

ENGLAND AND WALES / JUDGMENT

Jaevee Homes Ltd v The Pensions Regulator

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Neutral citation number: [2026] UKFTT 00107 (GRC) First-tier Tribunal (General Regulatory Chamber) Pensions Case Reference: FT/PEN/2024/0353 Decided without a hearing Decision given on: 23 January 2026 Before JUDGE SAWARD Between JAEVEE HOMES LTD and THE PENSIONS REGULATOR Appellant Respondent Decision: The proceedings are struck out pursuant to Rules 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 for lack of jurisdiction.

Background

REASONS

1. 2. In a reference to the Tribunal dated 16 October 2024 the Appellant seeks to challenge the amount of fine imposed against it in an Escalating Penalty Notice (“EPN”). The EPN was issued by the Regulator on 29 July 2024 under reference number 230576683745. The Appellant accepted that it had missed one contribution, but not three as claimed. In response, the Regulator applied on 25 April 2025 to strike out the appeal under Rule 8(2)
- (a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (“the 2009 Rules”). The basis for the strike out application is that the Tribunal does not have jurisdiction to consider it because the requirements of section 44(2) of the Pensions Act 2008 (“2008 Act”) have not been met. In particular, the Regulator submits that the Appellant did not request a review in time, and the Regular determined not to conduct a review. © CROWN COPYRIGHT 2026
3. Under Rule 8(4) the Tribunal may not strike out the whole or a part of the proceedings without first giving the Appellant an opportunity to make representations in relation to the proposed striking out. By Case Management Directions dated 25 June 2025 the Appellant was directed to respond to the Tribunal no later than 5pm on 17 July 2025 to confirm whether they wish to continue with their appeal. If so, the Appellant was directed to make representations as to why the case should not be struck out. The Appellant was warned that a failure to respond could result in the Tribunal striking out the case. No response was received.

Analysis

4. The Pensions Regulator is responsible for the regulation of work-based pension schemes, as established by section 1 of the Pensions Act 2004 (“2004 Act”). The Appellant is an employer for the purposes of the ‘Employer Duties’ under the 2008 Act.
5. On 2 May 2024, the Regulator issued an Unpaid Contributions Notice to the Appellant requiring all outstanding pension contributions to be paid and evidence of compliance supplied by 12 June 2024. An email reminder was sent on 22 May 2024. When no evidence of compliance was received, the Regulator issued a Fixed Penalty Notice (“FPN”) to the Appellant by post on 27 June 2024. The FPN gave a deadline of 25 July 2024 to demonstrate compliance with the requirements of the notice. After the FPN deadline expired, the EPN followed on 29 July 2024.
6. On 9 October 2024, the Appellant requested a review of the EPN decision. The Respondent replied on 16 October 2024 declining to conduct a review as the application for review was received outside the 28-day time limit. The Regulator did not consider it appropriate to conduct a review of its own initiative.
7. Under section 43(1) of the 2008 Act, the Regulator may review a FPN and EPN: “(a) on the written application of the person to whom the notice was issued, or (b) if the Regulator otherwise considers it appropriate”. The prescribed period for a written application for a review under section 43(1)(a) is 28 days starting from the day a notice is issued to a person (Regulation 15(1) of the Employers’ Duties (Registration and Compliance) Regulations 2010).
8. Under section 44 of the 2008 Act, a person can make a reference to the Tribunal in respect of the issue or amount of a penalty notice. The conditions are that the Regulator has completed a review under section 43, or “the person to whom the notice was issued has made an application for the review of the notice under section 43(1)(a) and the Regulator has determined not to carry out such a review” (section 44(2)(b)).
9. The Regulator relies upon *Mosaic Community Care Limited v The Pensions Regulator* (PEN 2015.0004) that the Tribunal’s jurisdiction to hear a reference only arises when a review under section 43 of the 2008 Act has been undertaken by the Regulator. The issue was considered more recently in the First-tier Tribunal by the Chamber President in *J. M. Kamau Limited v The Pensions Regulator* [2025] UKFTT 00425(GRC).
10. Upon referring this case to the Tribunal, the HR Director for the Appellant stated: “We did not receive the original letters stating that there were alleged late contributions to the NEST pension scheme. When we received the letter stating the fine was £5,000 plus £400, I contacted The Pension Regulator and supplied them with evidence that 2 of the contribution periods in question had in fact been paid on time. However, 1 contribution was missed that we were not aware of and was rectified immediately. I requested that The Pension Regulator reconsider the size of the fine based on this information.”

11. The outcome sought is a reduction in the fine. The Appellant adds: “We moved address in March 2024 and we have had some issues with receiving our post so I responded as soon as I was made aware that there was a fine.”
12. Applying *Philip Freeman Mobile Welders Limited v The Pensions Regulator* [2022] UKUT 62 (AAC) at [47] to [49], the Regulator accepts that the Tribunal should not strike out a reference without a hearing if there is evidence of non-receipt that amounts to more than a bare denial of receipt.
13. In this case, the Appellant did not deny receipt of any notices in its review request of 9 October 2024. Whilst the Appellant disputed receipt of some correspondence, it had confirmed receipt of other letters.
14. The Appellant has not elaborated upon which letters were not received. As the Appellant did not take the opportunity to respond to the strike out application, there is nothing before the Tribunal to indicate that the EPN was received late. Clearly, the EPN was received as the Appellant requested a review and subsequently made this referral in respect of the EPN to the Tribunal.
15. The Regulator confirms that all notices and associated correspondence were issued by post to the Appellant at its registered office address, being the same address used in this reference to the Tribunal. The Companies House printout provided shows that this has been the registered office address since 2 April 2024. This date precedes the issue of any of the statutory notices.
16. Section 303 of the 2004 Act sets out how and to whom notices are to be served. It applies to notices issued under the 2008 Act. For the purposes of section 303 and section 7 of the Interpretation Act 1978 (service of documents by post), the proper address in the case of a body corporate is the address of the registered or principal office of the body (section 303(6)).
17. From the information before me, I am satisfied that the EPN was issued to the Appellant, as a body corporate, to its registered office address on 29 July 2024 in a manner prescribed by section 303(6)(a) of the 2004 Act.
18. Regulation 15(4)(c) of the 2010 Regulations contains a rebuttable presumption that a notice was received by the person to whom it was addressed. The Regulator confirms that it has no record of any postal correspondence sent to the Appellant at its registered office address being returned undelivered. The Appellant has not produced any evidence to rebut the presumption of receipt. I can thus be satisfied as a matter of law that the EPN was received by the Appellant at the time the letter would be delivered in the ordinary course of post, as per section 7 of the Interpretation Act 1978.

19. The review request was made considerably outside the 28-day time limit. It follows that an application for a review was not made pursuant to section 43(1)(a) of the 2008 Act. The necessary conditions for a reference to the Tribunal under section 44 cannot be met. In consequence, the Tribunal does not have jurisdiction to consider the reference pursuant to section 44(2)(b) of the 2008 Act.
20. Pursuant to Rule 8(2) of the 2009 Rules, the Tribunal “must strike out the whole or part of the proceedings if the Tribunal does not (a) have jurisdiction in relation to the proceedings or that part of them...”. That being so, these proceedings are struck out. Signed: Judge Saward
Date: 20 January 2026 4

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