

ENGLAND AND WALES / JUDGMENT

Premier Solutions and Training Limited v The Pensions Regulator

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Neutral citation number: [2025] UKFTT 01224 (GRC) First-tier Tribunal (General Regulatory Chamber) Pensions Case Reference: FT/PEN/2025/0083 Decided without a hearing Decision given on: 15 October 2025 Before JUDGE HARRIS Between PREMIER SOLUTIONS AND TRAINING LIMITED and THE PENSIONS REGULATOR Appellant Respondent Decision: The proceedings are struck out under Rule 8(2)(a) because the Tribunal does not have jurisdiction to consider them.

REASONS

1. This is an appeal against a fixed penalty notice (“FPN”) issued under section 40 of the Pensions Act 2008 (“the Act”) and Escalating Penalty Notice (“EPN”) under section 41 of the Act by the Pensions Regulator (“the Regulator”). The Regulator has invited the Tribunal to strike out the appeal under Rule 8(2)(a). This is on the basis that the Tribunal does not have jurisdiction because no review has been undertaken by the Regulator.
2. Under Rule 8(2) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, the Tribunal “must strike out the whole or a part of the proceedings if the Tribunal - (a) does not have jurisdiction in relation to the proceedings or that part of them; and (b) does not exercise its power under rule 5(3)(k)(i) (transfer to another court or tribunal) in relation to the proceedings or that part of them”
3. Under section 43(1) of the Pensions Act 2008, the Regulator may review a fixed penalty and escalating penalty notice, “(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 © CROWN COPYRIGHT 2025 period for a written application for a review under section 43(1)(a) is 28 days from the date of the notice.
4. Under section 44 of the Pensions Act 2008, 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)). 5. I have considered the background information provided by both parties.

6. The Regulator issued the Appellant with a Compliance Notice on 5 September 2022, an FPN on 9 November 2022 and an EPN on 12 December 2022. The Appellant requested a review of the FPN and EPN on 20 September 2024. The Respondent declined to conduct a review because it had been received outside the 28-day time frame for doing so and declined to conduct a review on its own initiative.
7. The Appellant's grounds of appeal states that it never received the notices and received nothing from the Regulator until 5 August 2024. Following my directions dated 26 September 2025, the Appellant filed an unsigned witness statement from Marty Mallhi, the Appellant's managing director which exhibited a number of documents, including copies of the Companies House records indicating when the registered office was changed.
8. The Regulator says that the Tribunal does not have jurisdiction because the conditions in section 44(2) of the Pensions Act 2008 are not met. The Regulator refers to the decision in *Mosaic Community Centre Limited v Pensions Regulator* (PEN/2015/0004) as showing that the Tribunal only has jurisdiction when a review under section 43 has been undertaken by the Regulator. The Regulator says there was no review in this case. There was also no refusal to carry out a review within the meaning of section 44(2) because the Appellant had not requested a review in the prescribed 28-day period which is set down in Regulation 15(1) of the Employers' Duties (Registration and Compliance) Regulations 2010. The Regulator therefore says that the necessary conditions in section 44 to permit a reference to the Tribunal are not met. 9. I considered the Upper Tribunal authority in *Philip Freeman Mobile Welders Ltd v The Pensions Regulator* [2022] UKUT 62 (AAC). This confirms that the presumption of service is not irrebuttable, and the rebuttable presumption of service applies to the question of whether a notice has been received for the purposes of the time limits for a review. Where there is a dispute about receipt of notices which may affect the relevant time limits, the evidence should be considered by the Tribunal.
10. The Appellant has argued that the paperwork, which appears to include the FPN and EPN was sent to the wrong address in London but the evidence the Appellant has provided shows that the address to which the FPN and EPN were sent was in fact the registered office of the company at that time. This is congruent with the evidence submitted by the Regulator as to the fact that it was. It states that its registered address was changed to the current address in June 2023. However, the Appellant has not put forward any case that would potentially rebut the presumption of service because at the time the notices were issued they were issued to the Appellant's registered office, notwithstanding the fact that the company was dormant. This means there is no evidence about receipt of the notices in this case that needs to be tested at a hearing before the First-Tier Tribunal.

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11. It is clear from the information provided by both parties that no request for a review of the FPN was made within the 28-day time limit. The Regulator refused to conduct any review for this reason. This means that the conditions of Section 44 of the Pensions Act are not met. There is no issue relating to receipt of notices. The Tribunal does not have jurisdiction to consider this appeal and so they are struck out under Rule 8(2)(a). Signed Judge Harris Date: 10 October 2025 3
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Prepared on 27 October 2026 · Esheria