

ENGLAND AND WALES / JUDGMENT

Rapident Solutions Limited v The Pensions Regulator

Source: caselaw.nationalarchives.gov.uk · Research copy typeset by Esheria. Not court-issued or certified.

NCN: [2026] UKFTT 00222 (GRC) First-tier Tribunal (General Regulatory Chamber) Case
Reference: Decision given on: 16 February 2026 Before JUDGE HEALD Between RAPIDTALENT SOLUTIONS LIMITED and THE PENSIONS REGULATOR Appellant Respondent Decision: This Reference (appeal) is struck out by rule 8(2)(a) The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.

REASONS

1. On 25 September 2025 the Appellant commenced this Reference. It relates to the Respondent's decision of 11 September 2025 not to carry out a review of escalating and fixed penalty notices references 208574610142 and 173869437660.
2. The Respondent has asked that the Reference be struck out by rule 8(2)(a) The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.
3. This application has been decided without a hearing as provided for by rule 32(3) The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. I have considered the GRC1, TPR's submissions on its application to strike out, the supporting documents and the Company's zip folder of documents.
4. The following definitions are adopted:- The Pensions Act 2008 the 2008 Act © CROWN COPYRIGHT 2026 The Pensions Act 2004 The Employers' Duties (Registration and Compliance) Regulations 2010 the 2004 Act the 2010 Regs. The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 the 2009 Rules The Appellant The Respondent unpaid contribution notice, escalating penalty notice & fixed penalty notice the Company TPR UCN, EPN & FPN Registered Office Address of the Company the RO address
5. The Company is an employer as defined in the 2008 Act and has a number of duties including pursuant to the 2008 Act. The Company was incorporated on 2 June 2020. At all material times the RO address was The Oak Centre, Whinfield Drive, Aycliffe Business Park, Durham, United Kingdom, DL5 6AU. RMT Ribchesters are accountants who have acted for the Company and for example submitted the GRC1 on behalf of the Company and are named as the Company's representative in the GRC1. As regards TPR the Chamber President in J. M. Kamau Limited v The Pensions Regulator (PEN/2023/0160) set out its objectives and ability to issue notices such as a UCN, FPN and EPN. Relevant law

6. Section 43(1) of the 2008 Act provides to the recipient of a notice the right to apply to TPR for a review and TPR may carry one out of its own volition. The time-limits for this (which are not extendable) are as set out in reg 15(1) & (2) of the 2010 Regs. They are (a) on an application from the person to whom the notice was issued, 28 days starting from the day a notice is issued to a person and (b) where TPR decides itself to review, 18 months, starting from the day a notice is issued to a person. 7. If the conditions in section 44(2) of the 2008 Act are met a recipient of a notice may apply to the Tribunal by section 44(1) of the 2008 Act in respect of (a) the issue of the notice (b) the amount of the notice. Jurisdiction
8. For the Tribunal to have jurisdiction it needs to be satisfied that the relevant notice was issued (ie sent and received) and that one of the conditions of section 44(2) of the 2008 Act is satisfied. Issue of a notice
9. Where the issuing of a notice is disputed it is for TPR (Kamau para 29) to satisfy the Tribunal that the relevant notice has been issued (ie sent and received).
10. As regards the sending of a notice:-
 - (a) in this case the Appellant is a body corporate. Section 303(6)(a) of the 2004 Act provides:- "For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of a person is—... (a) in the case of a body corporate, the address of the registered or principal office of the body"
 - (b) Reg 15(4) of the 2010 Regs says that:-
 - (4) For the purposes of this regulation, it is presumed that— (a)where a notice is given a date by the Regulator, it was posted or otherwise sent on that day; (b)if a notice is posted or otherwise sent to a person's last known or notified address, it was issued on the day on which that notice was posted or otherwise sent;
 - (c) In Kamau the Chamber President said (with provisos):- "80 In future cases before this Tribunal, The Pensions Regulator is entitled to rely upon the evidence of Ms Doherty, as detailed in [32] to [55] above, as to the system it operates for the issuing of IPBs, FPNs and EPNs. There will be no further requirement to produce a witness statement detailing these processes, unless a direction is made to that effect in a given matter."
11. As regards receipt by the Company:-
 - (a) it is again for TPR to satisfy the Tribunal of receipt and to do so it needs to consider any evidence put forward by an Appellant (Kamau 85).
 - (b) TPR may wish, where appropriate, to refer to and seek to rely on reg 15(4)(c) of the 2010 Regs which provides that "(4) For the purposes of this regulation, it is presumed that —(c) a notice was received by the person to whom it was addressed."

- (c) this presumption is rebuttable (Kamau 105) by an appellant. If the presumption is successfully rebutted, the burden passes back to TPR. However to rebut the presumption an appellant will need to do more than merely assert non-receipt (London Borough of Southwark v Akhtar [2017] UKUT 150 (LC) at para 82). The section 44(2) conditions
12. The Tribunal will only have jurisdiction in relation to an issued notice if one of the conditions in section 44(2) of the 2008 Act are satisfied. If a recipient of a notice requests a review after the expiry of the 28 day time limit in reg 15(1) and TPR says it will not carry one out due to its lateness that is not an application for a review pursuant to section 43(1)(a) of the 2008 and the refusal is not a determination not to carry out a review. Strike out Application
13. Rule 8(2)(a) 2009 Rules provides that "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." Additionally:-
- (a) there can be no strike out without first giving the appellant an opportunity to make representations.
- (b) when considering this issue the Tribunal must consider the overriding objective in rule 2 2009 Rules to deal with cases fairly and justly.
14. This decision is made in the context of a strike out application. In Philip Freeman Mobile Welders Limited -v the Pensions Regulator [2022] UKUT 62 (AAC) the Upper Tribunal said:- "29. A general concern I have about the tribunal's approach, which affects both stages in the analysis (and thus both the first and second grounds of appeal), is that it was carried out in a strike out jurisdiction under rule 8 of the GRC Rules where the appellant could not require that the factual case that it may have wished to put forward could be made at an oral hearing: see rule 32(1) and (3) of the GRC Rules..." and in Kamau the Chamber President added:- "11 Whilst I take note of that concern, rule 8 of the 2009 Rules is clear, if the Tribunal does not have jurisdiction, then the matter must be struck out. Inevitably, therefore, a factual analysis relevant to whether the Tribunal has jurisdiction must be carried out within the context of a consideration of whether to strike out the appeal... Where facts material to the outcome of the decision on jurisdiction are in dispute, then it is unlikely to be appropriate to determine the issue of jurisdiction without a proper opportunity being provided to the parties to prove the matters of fact relied upon."
15. TPR says that its application to strike out was sent to "all parties" on 17 November 2025. To further ensure compliance with rule 8(4) 2009 Rules on 11 December 2025 Case Management Directions ("CMD") were issued which said the Company "...must send to the Tribunal and the Respondent by 9 January 2026 any representations which they wish to make in relation to the proposed striking out of their appeal." These CMD were sent to Ribchesters by the Tribunal by email on 11 December 2025. As far as I am aware no representations have been received. The Company's case

16. In the absence of representations I have relied on the Company's grounds in the appeal form which are set out below:- "Our client believes the decision to be unjust. Rapidtalent Solutions Ltd did not receive any notice letters from The Pension Regulator just the electronic communication of the penalty. They were in the dark as to what was required from them so was unable to act upon it within the time frame. The electronic correspondence our client received was dealt with the next day, and was made clear that the action threatened was neither proportionate nor justified. Our clients found the process to be very difficult. Why can't the agent be included in such correspondence, this could have been resolved much sooner and certainly if we had received the notices we could have acted upon immediately."
17. In addition the email from Ribchesters to TPR of 8 September 2025 said:- "Unfortunately, we were totally unaware that penalty notices had been issued until we received the below email of a final notice which is why we followed up with a telephone call to you on 28 August 2025. We had not seen sight of the original letters to our client or else we could have attempted to resolve this sooner. We spoke to our clients on 28 August, Ryan Stainsby, director of the company was corresponding with you on several occasions regarding the penalties that were issued and wanted to handle the matter. He has since instructed us to deal with it. We understand from the conversation that we had with your team, that you require evidence of paid contributions for the period 6 October 2024 to 5 January 2025 by way of a screen shot from the NEST pension portal. Please find attached such evidence of the paid schedules for that period and beyond. We can drill down further to include a list of employees, amounts and dates paid, but we would have to remove employee National Insurance Numbers before including this evidence. When collating the evidence on NEST portal it was discovered that one of the months was locked, 6 November 2024 to 5 December 2024. This needed intervention by NEST to unlock it before re-submission could take place. As soon as we received notification from NEST that this had been resolved, the schedule was re-submitted for payment. Therefore, please find attached evidence of this and the date it will be collected from Rapidtalent Solutions Ltd bank account. As you can see from evidence submitted to you, there were minor technical teething issues to start with, which again 6 November 2024 to 5 December 2024 was part of. Rapidtalent Solutions Ltd have since kept up to date with all payments. We hope this is sufficient evidence to close the case and to be able to make an appeal to cancel the penalty notices." Grounds of the strike out
18. TPR (in summary) says that the Tribunal has no jurisdiction and the Reference must be struck out because:-
 - (a) the notices have been issued. TPR complied with section 303 of the 2004 Act and relies on the presumptions in reg 15(4) of the 2010 regs. The Company's submission about receipt of the notices is merely an assertion that TPR's notices were not received which is inadequate to rebut the presumption of service in reg 15(4) of the 2010 Regs.

- (b) there has been no review of the notices by TPR by section 43(1)(b) of the 2008 Act. TPR has not reviewed the notices on the request of the Company by section 43(1)(a) of the 2008 Act because the request was outside the time limit constraints of reg 15(1) of the 2010 Regs. As a consequence the conditions set out section 44(2) of the 2008 Act have not been met and so there can be no Reference by section 43(1) of the 2008 Act. Were the notices sent to the Company?
19. TPR says that it issued a UCN dated 5 March 2025 to the Company addressed to the RO address, issued a FPN dated 2 May 2025 to the Company addressed to the RO address and issued an EPN dated 3 June 2025 to the Company at the RO address. It says that the notices were sent by post to the RO address.
20. The application does not refer to Ms Doherty's evidence in Kamau however the notices are addressed to the RO address, the Company did not actually dispute they were sent and has not responded to the application despite the CMD. I also note that in the email from Ribchesters of 8 September 2025 the writer says:- "We spoke to our clients on 28 August, Ryan Stainsby, director of the company was corresponding with you on several occasions regarding the penalties that were issued and wanted to handle the matter. He has since instructed us to deal with it." which is a persuasive indication that the Company had received notices from which it follows that they were sent.
21. I am satisfied that TPR has established (including by reference to the 2010 Regs) that the notices were each properly sent to the Company on the dates that appear on the notices. Were the notices received?
22. Receipt of the notices is disputed by the Company as follows:-
- (a) in Ribchester's email they said "Unfortunately, we [meaning Ribchesters] were totally unaware that penalty notices had been issued"
- (b) in the GRC1 the Appellant said "Rapidtalent Solutions Ltd did not receive any notice letters from The Pension Regulator just the electronic communication of the penalty. They were in the dark as to what was required from them so was unable to act upon it within the time frame."
23. There has been no response to the strike out application, despite the CMD and the grounds of appeal consist only of a mere assertion of non- receipt. Additionally in the email from Ribchesters they say:- "We spoke to our clients on 28 August, Ryan Stainsby, director of the company was corresponding with you on several occasions regarding the penalties that were issued and wanted to handle the matter. He has since instructed us to deal with it" which is a persuasive indication that notices had been received.
24. I am satisfied that the notices were received and in any event the Company has not overcome the presumption of delivery provided by reg 15(4)(c) of the 2010 Regs. Is section 44(2) satisfied?

25. There has been no review by TPR. The Company asked for a review. TPR responded to Ribchesters on 11 September 2025 refusing to review either notice because "Your application for review reached us after the 28 day deadline set by law, this means we cannot accept your application..." I am satisfied that the request was made later than the time constraints of reg 15(1) of the 2010 Regs. Accordingly the conditions set out in section 44(2) of the 2008 Act were not satisfied. Rule 8(4) 2009 Rules
26. Having considered the overriding objective and rule 8(4) 2009 Rules I am satisfied that the Company has had an appropriate opportunity to make submissions on this application because:-
- (a) TPR says that it sent the strike-out application to the parties and CMD were given to ensure the Company had a further opportunity to respond with a deadline of 9 January 2026 which has expired by over a month.
- (b) these CMD were sent to the Company's representative named in the GRC1 by email, on 11 December 2025, the email address used was as set out in the GRC1 and the GRC1 says "If you appoint a representative, the tribunal office will only correspond with your representative." Decision
27. To summarise (a) the Company has had an appropriate opportunity to respond to this application to strike-out as required by rule 8(4) 2009 Rules and the CMD (b) I am satisfied, on the evidence available, that the notices were issued and (c) the conditions of section 44(2) 2008 Act have not been met
28. Accordingly, there is no jurisdiction for the Tribunal to consider this Reference and the Reference must be struck out by rule 8(2)(a) 2009 Rules. Signed Judge Heald Date: 12 February 2026 7

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://caselaw.nationalarchives.gov.uk/ukftt/grc/2026/222>

CASE PAGE <https://chat.esheria.ai/case-law/england-and-wales/rapidTalent-solutions-limited-v-the-pensions-regulator-2026>

Prepared on 25 October 2026 · Esheria