



Neutral citation number: [2025] UKFTT 00212 (GRC)

Case Reference: FT/PEN/2024/0324

First-tier Tribunal
(General Regulatory Chamber)
Pensions

Decided without a hearing
Decision given on:

Before

JUDGE MOAN

Between

SKOLAK HEALTHCARE LTD

Appellant

and

THE PENSIONS REGULATOR

Respondent

The appeal was determined without a hearing

Decision: The appeal is struck out under Rule 8(2)(a) – the Tribunal has no jurisdiction to hear this appeal.

REASONS

Decision under appeal and background

1. The Appellant lodged an appeal on a GRC 1 application form dated 10th September 2024. The appeal appeared to relate to a fixed penalty notice and an escalating penalty notice. Neither notice was attached to the appeal although the Appellant said in the GRC 1 that the date of the decision notices were 8th August 2024.

2. It became apparent in the response document from the Respondent that the decision notices related to a fixed penalty notice dated 6th May 2021 and an escalating penalty notice dated 7th June 2021.
3. For an appeal to be made, the Appellant must have requested a review of the penalties within 28 days of imposition, or the Respondent has carried out a review of its own volition. The Respondent has 18 months from the time of imposition to carry out a review of its own volition. Section 44(2) of the Pensions Act 2008 specifies that one of the following conditions must be satisfied before an appeal can be made to the Tribunal –

(2) The conditions are –

(a) that the Regulator has completed a review of the notice under section 43;

(b) that 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.

4. No review has been requested and no review undertaken on the Respondent's own motion. Therefore, the pre-conditions for an appeal being made have been satisfied and the appeal cannot be made under s44 of the 2008 Act.
5. On 25th November 2024, the Respondent applied to strike out the appeal due to lack of jurisdiction. The Appellant has not responded to that application.
6. The chronology of the events between the Appellant and Respondent is also noteworthy. It appears that in March 2021, the Respondent had been corresponding with the Appellant by email regarding their duties and a fixed penalty had been imposed on 22nd March 2021. That fixed penalty was set aside as the unpaid contributions notice and fixed penalty notice had been sent by post to the trading address and not the registered office.
7. The unpaid contributions notice was then sent to the registered office address and the fixed penalty notice followed thereafter. It can be seen that 6 letters and 1 email were sent to the Appellant between 6th April 2021 and 18th August 2021. After further non-compliance the escalating penalty notice was imposed. By 4th July 2021 the escalating penalty notice was £ 14000.
8. In the summer of 2023, there were email exchanges about incomplete schedules and the need to provide information and keep employee data updated. The Appellant was asked to provide a screenshot of the information on his Nest Portal and copies of bank statement showing payments but this was not forthcoming. The enforcement of the debt then continued.

9. The Respondent applied for enforcement of the debt through the County Court and a judgment was granted the same on 16th April 2024. An application to set aside that judgment was subsequently dismissed and the Appellant was ordered to pay the Respondent's costs.
10. This appeal comes far too late and it appears that the Appellant were aware of the issues around non-notification at the time of the first fixed penalty. Moreover, neither of the pre-conditions for an appeal are met. The appeal cannot be made and is duly struck out as the Tribunal has no jurisdiction to entertain this appeal.

District Judge Moan sitting as a First Tier Tribunal Judge

17th February 2025