



Appeal number: PR/2017/0028

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(PROFESSIONAL REGULATION)**

RANJIT SINGH BADWAL

Appellant

- and -

**KINGSTON UPON HULL
CITY COUNCIL**

Respondent

TRIBUNAL: JUDGE ALISON MCKENNA

Sitting in Chambers on 21 December 2017

Decision

1. The Appeal is dismissed.
2. The Penalty Charge Notice dated 11 July 2017 in the sum of £2000 is confirmed.

Reasons

Background

3. The Appellant is the landlord of residential premises at Flat 2, 339 Anlaby Road, Kingston Upon Hull HU3 2SA. The Respondent (“the Council”) is the enforcement authority which served on the Appellant a Remedial Notice under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, on 10 May 2017. As the Remedial Notice was not complied with, the Council served a Penalty Charge Notice in the sum of £2000 on 11 July 2017.
4. By his Notice of Appeal dated 15 August 2017, the Appellant makes it clear that he does not dispute the facts on which the Council relied when deciding to impose the financial penalty. However, he submits that the Council’s decision to impose a financial penalty was unreasonable and that the amount of the penalty is unreasonable.
5. The parties and the Tribunal agreed that this matter was suitable for determination on the papers in accordance with rule 32 of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, as amended

The Legal Framework

6. Regulation 4 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 provides that the landlord of a relevant tenancy must ensure that there is a smoke alarm on each storey of residential accommodation.
7. Regulation 5 of the 2015 Regulations provides for a local authority with reasonable grounds to believe that a relevant landlord is in breach of regulation 4 to serve a Remedial Notice on that landlord.
8. Where a Remedial Notice is served, if the landlord does not take the action specified within the time specified (28 days) then Regulation 8 provides for a Penalty Charge Notice to be served. The penalty must not exceed £5,000. Regulation 10 provides for the local authority to review the penalty charge notice.
9. Regulation 11 provides a right of appeal to this Tribunal. The Tribunal may quash, confirm or vary the penalty. The permissible grounds for an appeal are that:

- (a) The decision to confirm or vary the penalty charge notice was based on an error of fact;
- (b) The decision was wrong in law;
- (c) The amount of penalty charge is unreasonable;
- (d) The decision was unreasonable for any other reason.

10. The burden of proof in the appeal rests with the Appellant. Any disputes of fact are to be determined on the balance of probabilities.

Submissions and Evidence

11. The Appellant does not dispute that the smoke alarm was defective when inspected by the Council on 7 May 2017. He has apologised for his omission and stated his intention is to do better in future. He states that he did not immediately remedy the situation because he was on holiday and busy at work. He suggests the Council should have reminded him. He explains his financial situation and asks for the penalty to be reduced.
12. The Council relies on a helpful report from its Environmental Health Officer, Mr Bower. He says that after serving the Remedial Action Notice on 10 May 2017, he spoke to the Appellant himself on 17 May to remind him to act. On 28 June 2017, the Council undertook the remedial works itself. M Bower also explains that, if the penalty had been paid within 14 days, the Appellant would have been entitled to a 25% discount. The Appellant did not take advantage of this scheme.
13. The Council's published approach to breaches of the Regulations is to impose a penalty of £2,000 for a first contravention and £5,000 for a subsequent contravention.

Conclusions

14. I am satisfied that the financial penalty was lawfully and reasonably imposed by the Council in this case for the serious breach of the Regulations which forms the subject matter of this appeal.
15. I am satisfied that the amount of financial penalty imposed by the Council was reasonable in all the circumstances. The amount of penalty is in accordance with the Council's published guidelines. The Appellant failed to take account of the early payment scheme.
16. The Appellant's excuses of being on holiday and being busy at work are not in my view matters which should justify a departure from the Council's usual approach to financial penalties. As a landlord who went on holiday whilst leaving his property in a dangerous

condition it is unfortunate that the Appellant chose to refer to his sympathy for the Grenfell Tower victims in seeking the Tribunal's indulgence.

17. Accordingly, the appeal is now dismissed and the Penalty Charge Notice is confirmed in the sum of £2,000.

(Signed)

Alison McKenna

Principal Judge

Dated: 21 December 2017

Promulgation date: 22 Dec. 17

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