

IN THE UPPER TRIBUNAL (LANDS CHAMBER)



**Neutral Citation Number: [2019] UKUT 291 (LC)
Case No: HA/25/2019**

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

***HOUSING – HOUSE IN MULTIPLE OCCUPATION – FIRST-TIER TRIBUNAL’S
DISCRETION TO EXTEND TIME TO APPEAL***

**IN THE MATTER OF AN APPEAL AGAINST A DECISION
OF THE FIRST TIER TRIBUNAL (PROPERTY CHAMBER)**

BETWEEN:

JOHN EWEN PEARSON

Appellant

and

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL Respondent

**Re: 56A Kirkgate,
ShIPLEY,
Bradford,
BD18 3EL**

Elizabeth Cooke, Upper Tribunal Judge

Determination on Written Representations

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Introduction

1. This is an appeal from the decision of the First-tier Tribunal (“the FTT”) to strike out the appellant’s appeal to the FTT from a financial penalty under section 249(a) of the Housing Act 2004, because he was managing a House in Multiple Occupation and had not obtained a licence.
2. The Final Notice of the financial penalty was dated 7 November 2018; as the notice itself stated, the appellant was entitled to appeal to the FTT but had to do so within 28 days. His application to the FTT was made on 25 January 2019. By a decision of 22 March 2019 the FTT made a discretionary decision to strike out the appeal, on the basis that it was out of time and that no good reason for the delay had been offered. The FTT on 26 April 2019 refused permission to appeal.
3. The Upper Tribunal on 17 June 2019 gave permission to appeal, on the basis that the appeal raised an important issue of procedure, namely whether the FTT has discretion to extend the period of 28 days in appeals from financial penalties imposed under section 249A of the Housing Act 2004. Permission to appeal the level of the penalty was not given.
4. On reflection it appears that there is no issue as to whether the FTT had a discretion to extend time. Appeals from financial penalties under section 249A are governed by Schedule 13A of the Housing Act 2004, but the statute does not impose a time limit for appealing; the time limit is therefore 28 days pursuant to rule 27 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, and the FTT has an unfettered discretion to extend time under rule 65 of those Rules.
5. Accordingly the FTT was correct to approach the question as one of discretion. In doing so it set out carefully the circumstances, and took the view that the appellant’s explanation for the delay – his having been very busy over Christmas - did not amount to a good reason. The Upper Tribunal will not interfere with the FTT’s exercise of its discretion on procedural matters unless it appears that the FTT has exceeded the bounds of a reasonable exercise of discretion. It has not done so here and the appeal fails.
6. In rejecting the appeal I am aware that the appellant has offered further explanation including the death of his parents in January and March 2018 and his having undergone surgery in May 2018. However, the explanation given to the FTT related to events over the following Christmas period; it cannot be said that the FTT took the wrong approach. I appreciate the tragic family circumstances that the appellant as suffered, but the financial penalty notice was served in November, it clearly stated the time limit for appealing, and it remains the case that no good reason has been offered for the delay.

Elizabeth Cooke
Upper Tribunal Judge

23 September 2019