



NCN: [2023] UKFTT 01023 (GRC)

Case Reference: PEN/2023/0197

**First-tier Tribunal
General Regulatory Chamber
[Pensions]**

Heard by determination on the papers.

Heard on: 8 December 2023

Decision given on:

Before: Judge Alison McKenna

Between

De CECCO UK LIMITED

Appellant

and

THE PENSIONS REGULATOR

Respondent

DECISION ON STRIKE OUT APPLICATION:

This appeal is struck out pursuant to rule 8 (2) (a) of the Chamber's Rules¹.

REASONS

1. By application dated 25 August 2023, the Appellant seeks to appeal against an Escalating Penalty Notice dated 4 May 2023. This was served for an alleged failure to comply with an Unpaid Contributions Notice dated 30 December 2022. The Escalating Penalty Notice was preceded in the usual way by a Fixed Penalty Notice dated 24 February 2023, but this has not been appealed.
2. In its Grounds of Appeal, the Appellant appears to accept that it had failed to comply with the Unpaid Contributions Notice and indeed accepts that it has unpaid contributions. It seeks to put forward mitigating circumstances for this situation.
3. By application dated 17 October 2023, the Regulator applied for this appeal to be struck out under rule 8 (2) (a) of the Tribunal's Rules, on the basis that the Tribunal has no jurisdiction to determine them.

¹ [The Tribunal Procedure \(First-tier Tribunal\) \(General Regulatory Chamber\) Rules 2009 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/115444/2009-tribunal-procedure-first-tier-tribunal-general-regulatory-chamber-rules-2009.pdf)

4. The Appellant was invited by the Tribunal, pursuant to rule 8 (4), to provide representations on the proposed strike out. The Appellant did not reply.
5. Parliament has provided that this Tribunal only has jurisdiction to consider appeals against financial penalties imposed by The Pensions Regulator when certain pre-conditions have been met. These include a requirement for The Pensions Regulator to have conducted a review. In this case, the Regulator did not receive a review request for the Escalating Penalty Notice within the relevant time limit, and so has not conducted a review of the penalty. It informed the Appellant of the situation on 12 August 2023.
6. I conclude that the necessary conditions for referral to the Tribunal under s. 44 (2) of the 2008 Act have not been met in this appeal. This has not been disputed by the Appellant. If the Tribunal lacks jurisdiction to determine an appeal, it is required to strike it out and has no discretion to consider it.
7. Accordingly, I now direct that this appeal be struck out and accordingly it will proceed no further.

(Signed)

JUDGE ALISON MCKENNA

DATE: 8 December 2023

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