



Neutral Citation: [2023] UKFTT 677 (GRC)

Case Reference: NV/2023/0008/HWC

**First-tier Tribunal
(General Regulatory Chamber)
Environment**

Heard by: Paper Consideration

Listed on: 14 August 2023

Decision given on: 16 August 2023

Before

TRIBUNAL JUDGE M. FORD

Between

VALENTINA IVANOVA

Appellant

and

LEICESTER CITY COUNCIL

Respondent

On the papers

Decision: The appeal is dismissed

REASONS

1. The Appellant is appealing the fixed penalty notice issued to her under s46 of the Environmental protection Act 1990 reference NV-2023-0008.
2. She denies the allegation that she left household waste on the highway other than the times specified by the Respondent for collection of household waste.
3. The Respondent alleges that on three separate occasions on 17/11/2022, 08/12/2022 and 26/01/2023 the Appellant was recorded as leaving her bin on the highway outside the permitted hours.
4. I note that all three of those dates are Tuesdays. The refuse and recycling collections take place on Thursdays.
5. On 14/12/2022 a Notice of contravention was served on the Appellant. I have evidence from the city warden showing that bin stickers were affixed to the bins advising residents that refuse collections took place on Thursdays and the residents were also issued with flyers advising them that they must not leave their wheelie bin and/or their recycling on the highway/footpath outside the permitted hours.
6. Under section 45 of the Environment Protection Act 1990 the local authority is under a duty to arrange for collection of household waste from any residents within its area of control.
7. Councils can impose requirements on residents regarding the receptacles in which they place their waste for collection and other related matters including the times during which residents are permitted to place those receptacles on the public highway.
8. I am satisfied that the s46 notices served on the appellant were duly served on the Appellant by post under section 160 (2) and (4) on the Environment protection Act. I am satisfied that they were properly served. I am also satisfied that stickers were attached to her bin alerting her to the situation. This can be seen in the photos supplied by the Respondent
9. The fixed penalty notice against which this appeal is lodged was issued because the Appellant left her wheelie bin on the highway other than at times specified in the Notice for collection.
10. The appellant has denied the offence and stated that she has not had any household waste "outside of public path or the trash bin". She claims that she only leaves her refuse out on the day on which it is to be collected. In the alternative, she has requested that the amount of the fine be reduced as she cannot afford to pay it given that she works only two days a week.
11. The Respondent acknowledges in its Reply that the Appellant was in touch with the Council about a bulky waste collection and to request a new lid for her bin.

Findings

13. On the evidence provided by the parties and served on the GRC I find that the Appellant has committed s46 offences on three occasions between 17/11/2022 and 26/01/2023 and that the Respondent Council was correct in issuing the fixed penalty notice for contraventions of s46 of the EPA 1990 against the Appellant.
14. I am satisfied that the Council had given the Appellant ample notice of the rules applicable to waste collection in her area by distributing flyers to residents in the area, including the Appellant as well as by attaching stickers to her bin reminding her of the collection day and that the wheelie bin must not be left out save at the specified times for collection. I am satisfied that the contravention and penalty notices were duly served on the Appellant
15. Three notices were served on the Appellant warning her of the contravention but she continued to leave her bin on the footpath outside the hours specified for collection (between 7pm on the evening before collection day and 7 am the morning after collection).
16. The Appellant may have misunderstood the situation and appears to make a distinction between the footpath and the highway. But there is no such distinction here. Residents are not permitted to leave their wheelie bins on the footpath outside the designated hours.
17. I see no connection between the Appellant's request for a new lid for her wheelie bin enquiry about bulk waste collection and the contraventions detailed above.
18. The Appellant has requested a reduction in the fine as she is only working two days a week. But she does not say why she is only working two days a week and I am not satisfied that there are compassionate circumstances in this case such that the amount of the fine should be reduced. She may be able to arrange a payment plan to pay the fine over a number of months, but this must be negotiated with the Respondent.
19. The appeal is dismissed.

Signed:



Date: 14/08/2023