



NCN: [2024] UKFTT 58 (GRC).

Case Reference: PEN/2023/0271 AE

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

**Heard by determination on the papers.
Heard on: 19 January 2024
Decision given on: 19 January 2024
Before: Judge Alison McKenna**

Between

LAWN ROAD CAFE LTD

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 14 November 2023, the Appellant seeks to appeal against a Fixed Penalty Notice dated 21 August 2023.
2. In its Grounds of Appeal, the Appellant seeks to put forward mitigating circumstances for this situation. I understand the business is now compliant.
3. By application dated 29 December 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 it.

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/115281/the-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. On 3 January 2024, the Appellant confirmed that it had nothing to add to its previous submissions.
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 Penalty Notice within the relevant time limit and declined to conduct a review out of time. This means it has not conducted a review of the penalty. It informed the Appellant of the situation on 14 November 2023.
6. I therefore 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 because the Tribunal lacks jurisdiction to determine it and accordingly it will proceed no further.

(Signed)

JUDGE ALISON MCKENNA

DATE: 19 January 2024

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