



NCN [2024] UKFTT 750 (GRC).

Case Reference FT-PEN-2024-0132

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

Decided without a hearing
Decided on: 16 August 2024

Before

JUDGE BUCKLEY

Between

DIVINE CARE PROVIDER LIMITED

Appellant

and

THE PENSIONS REGULATOR

Respondent

Decision: The appeal is struck out under rule 8(2) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Procedural Rules 2009.

REASONS

1. Divine Care Provider Limited is referred to as the Employer in this decision.
2. By case management directions sent to the parties on 14 May 2024 the Employer was ordered to complete and return the 'Pensions - right to appeal' form within 28 days of 14 May 2024. The Employer has failed to comply. Those

directions expressly stated: 'This is a formal notice under rule 8(4) to provide representations as to why your appeal should not be struck out for lack of jurisdiction pursuant to rule 8(2)'.

3. It is apparent from the documents provided with the notice of appeal that no review has been carried out by the Regulator and that no request for a review was made within 28 days of the date of the penalty notices dated 14 November and 14 December 2023.
4. The appeal is made on the basis that the payroll and pensions of the Employer were handled by external accountants, who 'disappeared' after the Employer company was bought by the current owners. It is not asserted in the grounds of appeal that the penalty notices were not properly issued or served on the Employer or its nominated representatives.
5. The Employer has been given the opportunity to, and indeed directed to, explain why the appeal should be allowed to proceed without a review, but has failed to do so.
6. Under section 43 and section 44 of the Pensions Act 2008, as interpreted in **Philip Freeman Mobile Welders Limited v The Pensions Regulator** [2022] UKUT 62 (AAC) the tribunal has no jurisdiction to hear an appeal where no review has been carried out and no request for a review has been made within 28 days of a penalty notice being issued and received.
7. In the circumstances I am satisfied, taking the Employer's case at its highest, that the tribunal has no jurisdiction to hear the appeal. It is not appropriate to exercise my discretion to transfer the appeal.
8. For those reasons the appeal is struck out.

Signed

Sophie Buckley

Date:

16 August 2024