



DECISION OF

Sheriff O'Carroll

**ON AN APPLICATION FOR PERMISSION TO APPEAL
(DECISION OF FIRST-TIER TRIBUNAL FOR SCOTLAND)
IN THE CASE OF**

Mrs Lillian Miller, 12 John Campbell Street, Gourock, PA19 1RZ

Appellant

- and -

Assesor for Renfrewshire Valuation Joint Board, The Robertson Centre, 16 Glasgow Road,
Paisley, PA1 3QF

Respondent

FTS Case reference: FTS/LTC/CT/23/00999

9 October 2023

Decision

The application for permission to appeal received by the Upper Tribunal on 6 October 2023 following the decision of the first tier tribunal dated 21 August 2023 to refuse permission to appeal against the decision of the FTS of 3 August 2023, being late, this Upper Tribunal not being satisfied that time be extended, refuses to admit the notice of appeal and dismisses the appeal.

Background

1. On 21 August 2023, the First-Tier Tribunal for Scotland (“the FTS”) made a decision refusing permission to appeal against the decision of the FTS dated 3 August 2023, refusing the Appellant’s appeal against the decision of the respondent not to grant the proposal of the Appellant that the council tax band of the Appellant’s house be varied downwards.
2. That decision of 21 August 2023 clearly informed the Appellant that she had the right to seek permission to appeal against the earlier decision of the FTS directly from the Upper Tribunal (“the UT”) and that any such application for permission to appeal had to be made in writing within 30 days after the date on which the decision was sent. Rule 3(9) of the Upper Tribunal Rules of Procedure 2016 (“the Rules”) provides similarly that where a FTS has sent a notice concerning an application for permission to appeal, any notice to appeal must be made within 30 days after the day of receipt of the permission notice.
3. The FTS decision of 21 August 2023 was sent on 23 August 2023. However, the Appellant’s application dated 30 September 2023 was not received by the UT until 6 October 2023. Therefore that was 44 days after the date on which the decision notice was sent to the Appellant. Therefore, on any view, the application was well out of time.
4. Rule 3(5) of the Rules provides that where a notice of appeal is late, the notice of appeal must seek a request for an extension of time, explain why the notice of appeal was not provided in time and state why it is in the interest of justice that the time be extended.
5. The Appellant has made such a request at part 6 of her application to this UT. In support she says that she was on holiday when the appeal decision arrived. No other details about that are given. Nothing is said about the dates she was on holiday, when she returned, what arrangements she made to deal with correspondence when she was away or when she returned. The UT is simply being asked to accept without any further explanation, without any vouching, that the Appellant was away for during the 44 day period on holiday and that it itself was a good reason for non-compliance with the time limit.

6. The Appellant also says that it is in the interests of justice that an extension of time be given, essentially because she believes that the FTS had not properly considered relevant details concerning her original application to the FTS. In essence, she says that because the FTS failed properly to determine her appeal to the FTS, it is in the interests of justice that this UT grants an extension of time to allow the appeal to be considered by the UT.
7. Therefore, in considering whether to grant an extension of time, it is necessary to consider the nature of the appeal, the submissions made before the FTS by the Appellant and the respondent and the FTS decision and decide whether taking account also of the reasons for the late appeal, it is in the interests of justice to allow the extension of time.
8. *Discussion.* I have carefully considered both decisions of the FTS. In essence, the reason for the initial refusal was that such an application to change the council tax band has to be made within 6 months of the appellant becoming a council tax payer for the property in question. This condition was manifestly not met by the appellant. She became the council tax payer on 21 June 2019. She sent the proposal (effectively the application to reduce her council tax band) on 20 June 2023. There is no general discretion in the legislation to allow late proposals to be made.
9. The second FTS decision on leave to appeal decided that the FTS decision was correct and refused leave to appeal on the same ground. The second FTS also considered, the three grounds of appeal mounted by the Appellant. It considered whether the Appellant's appeal could be allowed because of a relevant change in the structure of the property, whether the bandings of other properties nearby were relevant and the Appellant's contention that some sort of appeal had been made in 2019. It considered all those points and rejected them.
10. In my view, the decisions of both FTS were sound. In particular, in my view, it cannot be said that any arguable errors of law have been made by either FTS. The Appellant requires to demonstrate an arguable ground of appeal before permission to appeal may be granted.
11. Therefore, returning to the present question before me, which is whether to grant an extension of time so that this application for permission to appeal may be considered, I have to consider also the importance of time limits for the carrying out of various steps that

are found in the legislation concerning tribunal practice and procedure. There is an important utility in such time limits. They are there for a reason, in order to promote certainty, order and finality in the conduct of tribunal litigation a tribunal should not readily excuse breach of those time limits. When considering whether to exercise its discretion to extend the time limits, the UT should carefully consider the statutory basis on which such discretion may be exercised and the whole circumstances concerning the case.

12. *Decision.* I refuse to allow an extension of time. In my view, no sound reason has been demonstrated for the notice of appeal having been lodged late. Furthermore, there is no arguable grounds of appeal in my view. Taking into account also the importance of adherence to time limits, I take the view in all the circumstances of the case that it is not in the interests of justice to grant an extension of time.
13. Therefore the Appellant's notice to appeal is dismissed.
14. This decision is not appealable or reviewable: section 55 (2) of the Tribunals (Scotland) Act 2014.

Judge of the Upper Tribunal