



Neutral Citation: [2022] UKFTT 151 (GRC)
Case Reference: NV/2022/0001

First-tier Tribunal
General Regulatory Chamber

Decided on the papers

Decision given on: 10 May 2022

Before

TRIBUNAL JUDGE FORD

Between

MR ALI SALAD AJAB

Appellant

and

LEICESTER CITY COUNCIL

Respondent

On the papers

Decision: The appeal is Allowed and the fine is reduced to £25

Substituted Decision Notice: A fine of £25 is substituted

REASONS

1. The appellant appeals against a fixed penalty notice issued by the respondent. The notice was issued because the appellant had failed to respond to 3 warning letters sent by the respondent concerning the household wheelie bin left on the footpath outside his home thereby causing a nuisance.
2. On 21/06/2020 a section 46 formal notice under the Environmental protection Act 1990 was served on the appellant.

3. 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.
4. 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.
5. 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 a blue sticker was attached to his bin alerting him to the situation. It can be seen in the photos supplied by the Respondent
6. The fixed penalty notice against which this appeal is lodged was issued under s46A(4) of the Environment protection Act. It was issued because the Appellant left his wheelie bin on the highway other than at times specified in the Notice for collection.
7. The appellant has relied on the defence of reasonable excuse. He states that the alleyway along which it is suggested he should have taken his wheelie bin in order to store it at the rear of the property is blocked by waste, including broken glass and used needles so that it is both difficult and unsafe to try to use it. The photographs he has supplied support this description. In addition, he states that there is a large uncovered hole in the public area that he would need to pass over and he has supplied a photo of this. He has not stated where this hole actually is and I am not satisfied that the Respondent has the responsibility of maintaining the area in which it is located.
8. The Appellant states that he broke his hip and had to have "recent surgery" and he has reduced mobility as a result. I have no reason to disbelieve him on this, but it is regrettable that he did not communicate this to the Respondent before the fixed penalty notice was issued.
9. The Appellant needs to understand that it is not the responsibility of the Respondent to keep alleyway he uses to store his bin clear, so that bins can be stored in the appropriate location.
10. It can be seen from the photos that the access alleyway is filled with litter and is unsanitary but the Appellant wrongly believes that the Respondent bears the responsibility of clearing it when it does not.
11. The Appellant does not live alone and has not explained why the other occupants at his property cannot assist him.
12. However, I recognise the Appellant's mobility issues as a mitigating circumstance and the Notice is modified so that the fine imposed is £25.

Signed

A handwritten signature in black ink, appearing to be 'A. Ford'.

Date: 06/05/2022