



NCN: [2022] UKFTT 278 (GRC)

Case Reference: NV/2022/0013

First-tier Tribunal  
General Regulatory Chamber

Decided on the papers

Decision given on: 6 May 2022

Before

TRIBUNAL JUDGE FORD

Between

LYDIA EGBOH

Appellant

and

LEICESTER CITY COUNCIL

Respondent

On the papers

**Decision:** The appeal is Allowed to the extent that the fine is reduced

**Substituted Decision Notice:** A fine of £25 is substituted

## REASONS

1. The appellant appeals against the fixed penalty notice issued by the respondent reference BH 08257. The notice was issued because the appellant had failed to respond to 3 warning letters sent by the respondent stating that the household wheelie bin on the footpath outside her home was causing a nuisance.
2. On 16 August 2021 Dawn England found 13 properties including the appellant's, on the street where the appellant lives, had placed their wheelie bins on the public footpath outside the times allowed by the respondent for collection.
3. On 13 October 2021 the appellant's wheelie bin was still found on the public footpath. The appellant did not respond to the blue warning sticker placed on her bin. On 17 December

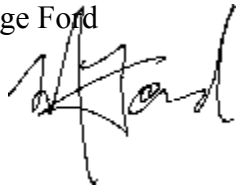
2021 the wheelie bin was still standing on the public footpath outside collection hours. I am satisfied that on that date the appellant was served with a notice of intention to serve a fixed penalty notice.

4. The appellant sent an email to the respondent on 28 December 2021 advising that she had a problem with accessing the area where the bins should have been kept. That area is shared with the houses on either side of the appellant's residence. On 30 December 2021 the respondent wrote to the appellant telling her that the alleyway and the date accessing it were privately owned and she needed to speak to the neighbours and/or the landlord to sort out her access.
5. On 15 February 2022 FPN BH 08257 was issued by the respondent and it was duly served on 8 March 2022. I am satisfied on the papers before me that the service was good
6. On the same day the appellant emailed the respondent objecting to the fixed penalty notice and indicating her intention to appeal.
7. 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.
8. 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.
9. The Council in this instance has by way of notices served on residents including the appellant and through its website, informed residents that wheelie bins should only be left on the public highway between specified hours to allow for collection. At all other times the wheelie bins must be removed from the highway and stored on private property.
10. 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.
11. 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 her wheelie bin on the highway other than at times specified in the Notice for collection.
12. The appellant has relied on the defence of reasonable excuse. She states that she did not see the blue sticker that the council had placed on her bin and on the bins of others along the street. She claims that she did not receive the warning letters from the council, but I do not accept this as she describes the attempts, she made to contact neighbours who had changed the lock thereby denying her and her other neighbour access to the area where the bins were normally stored. She would not have made those attempts if she did not realise that there was a problem.
13. The appellant states that the neighbours in question had returned to Romania. The new residents of the property did not respond to letters. Ultimately, it was not until after 3 March 2022 that the appellant made arrangements with the letting agency from whom she rents the property for their maintenance man to attend and change the locks on the access gate.
14. The appellant complains that £80 is too much for her to pay, that she is very busy and home-schooling three children.

15. Having considered all the circumstances in this case the Appellant was too slow in responding to the warning notices and the blue sticker served/attached by the Respondent. I recognise however that she is a busy person and that £80 is a lot for her to pay and I reduce the fine on this occasion to £25.

16. The appeal is allowed to the extent that the penalty is reduced to £25 payable by 28 days after the date of notification of this decision.

Signed: Tribunal Judge Ford

A handwritten signature in black ink, appearing to read 'Ford', written over the printed name 'Tribunal Judge Ford'.

Date: 06/05/2022