



NCN [2023] UKFTT 01078 (GRC).

Case Reference: PEN/2023/0133/AE

**First-tier Tribunal
General Regulatory Chamber
Pensions Regulation**

Heard by: Judge in Chambers on the papers

Decision given on: 22nd December 2023

Before

HHJ DAVID DIXON

Between

PAUL AGIUS

Appellant

and

THE PENSIONS REGULATOR

Respondent

Decision: Permission to Appeal refused.

RULING ON APPLICATION FOR PERMISSION TO APPEAL

1. **Permission to appeal is refused.**

REASONS

Background to Appeal

The Applicant sought to challenge the Respondent's assertion that he had failed to comply with a compliance notice and thereby was given a fixed penalty notice of £400. The Appeal was dealt with on the papers after consideration of all of the materials supplied by both the Appellant and the Respondent.

The Tribunal considered matters and determined that the Appellant had failed to comply and that the fixed penalty was therefore appropriate. The details of the Tribunal's decision were set out in a written judgment.

The Application for Permission to Appeal

The Appellant has sought Permission to challenge the decision by application dated 22nd December 2023. His grounds of appeal are that neither the Regulator at first instance, nor the Tribunal understood the difficulties he had completing the online form. He asserts that the Tribunal made a mistake of fact in effect and seeks suspension of the Ruling.

Ruling

2. I have considered in accordance with rule 44 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 whether to review the Tribunal's Decision but have decided not to undertake the same, as I am not satisfied that there was an error of law in the Decision.
3. Appeals from the First-tier Tribunal to the Upper Tribunal can only be made if there is an arguable error of law in the First-tier Tribunal's decision. Rule 42 of the Tribunal's Rules requires a person requesting permission to appeal to identify an alleged error of law in their application for permission to appeal. It is not possible to appeal simply because you do not agree with the Tribunal's decision.
4. The Appellant argues that the Tribunal failed to understand the format of the form and suggests that there "is no evidence presented that shows that I had been given all the questions or failed to answer questions that had been given....". The aforesaid is regrettably incorrect. The Respondent indicated that the form was not completed properly hence the compliance notice and then the fixed penalty. The form completed by the Appellant is the same form as that for every other employer. There is no general concern about the form. I have never received an Appeal where the issue is with the form itself. I can and did take judicial note of that fact.
5. The simple reality is that the Appellant did not complete the form correctly. It was his responsibility to do so and he failed in that regard. If he was unsure whether the form was completed or not he should have checked. The burden of compliance is on him, not the Regulator,

6. On the materials supplied by both parties, the decision reached was not a mistake. There is no error of fact, let alone law here, and as such the application for Permission to Appeal is meritless.
7. Permission to Appeal is not to be granted simply because the Appellant doesn't like the decision reached. Here that is exactly what the Appellant seeks. Accordingly, bearing in mind all of the above, permission to appeal is refused.
8. As the suggested Grounds of Appeal have no merit, I have balanced the issues in this case against the potential risks and/or injustice to the Appellant, and have come to the view that it would be wrong to stay/suspend this decision pending further Appeal.
9. **The Applicant is entitled to renew his application to the Upper Tribunal.**

(Signed)

DATE: 22nd December 2023

HHJ D Dixon