

First-tier Tribunal : [2022] UKFTT 00439 (GRC)

(General Regulatory Chamber)

Pensions Regulation

Before

TRIBUNAL JUDGE NEVILLE

Between

CUSH DECOR LTD

Appellant

and

THE PENSIONS REGULATOR

Respondent

DECISION NOT TO ADMIT RULE 4(3) APPLICATION

1.

Despite the applications for a review being late, on 1 October 2019 the Regulator conducted reviews of the two penalty notices that are the subject of these proceedings, deciding that they should remain in place. The notices of appeal against the fixed penalties were then received by the Tribunal some 20 months afterwards, on 1 June 2021. This was obviously well beyond the 28 day time limit provided by rule 22(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. The reason given for that delay was, so far as I can discern, that the outcome of the reviews was sent to the appellant's registered office where it did not check its post. It had only become aware of the reviews on enforcement action being taken.

2.

In decisions dated 11 June 2021 (erroneously dated 11 May 2021) a Tribunal Registrar declined to extend time for bringing the present references. His decisions were sent to the same email address as had been given to the Tribunal and from which the notices of appeal had been received.

3.

Rule 4(3) entitled the appellant to apply within 14 days to have the Registrar's decisions considered afresh by a Judge, that time limit being notified at the foot of each decision. Rule 14 applications have now been made, 453 days out of time. That is obviously a very severe delay. No reason has been provided, save to say that a sheriff officer has visited again.

4.

To extend time now would seriously undermine the public interest in compliance with rules and directions, and in the finality of litigation. Having been given a second chance by the Regulator's out-of-time agreement to conduct reviews, the appellant's continued disorganisation means it has missed its opportunity to challenge the penalty notices before the Tribunal. I decline to admit the rule 4(3) application. The Tribunal will take no further action.

Signed Date:

Judge Neville 29 November 2022