



**FIRST - TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **CAM/34UF/HNA/2019/0010**

**Property** : **52 Victoria Road, Northampton NN1  
5EQ**

**Applicant** : **Mr Raj Sharma**

**Respondent** : **Northampton Borough Council**  
**Representative** : **Mr James Chadwick, Senior Solicitor**

**Date of Application** : **11<sup>th</sup> April 2019 (rec'd 1<sup>st</sup> May 2019)**

**Type of Application** : **Appeal against a financial penalty –  
Section 249A & Schedule 13A to the  
Housing Act 2004**

**Tribunal** : **Judge JR Morris**  
**Mrs M Wilcox BSc MRICS**  
**Mr N Miller BSc**

**Date of Directions** : **3<sup>rd</sup> June 2019**

**Date of Hearing &  
Decision** : **17<sup>th</sup> September 2019**

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**DECISION**

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**Decision**

1. The Respondent having conceded that the Financial Penalties were invalid, the Tribunal, in exercise of its powers under paragraph 10 (4) of Schedule 13A of the Housing Act 2004, cancels the Final Notices.

**Reasons**

2. This application is for an appeal against five Financial Penalties made under section 249A of the Housing Act 2004 in respect of 52, Victoria Road, Northampton NN1 5EQ (the Property). It was received by the

Tribunal on 1<sup>st</sup> May 2019, 16 days after the expiry of the deadline to appeal stated in the Final Notice of 12<sup>th</sup> March 2019.

3. There is no time limit in the Housing Act 2004 (as amended) in respect of appeals against Financial Penalties. Rule 27 of the 2013 Rules applies where no time limit is prescribed and states that any appeal has to be received within 28 days after the date on which notice of the decision to which the appeal relates was sent to the applicant. In this case, the Final Notice is dated 12<sup>th</sup> March 2019 and it is assumed 15<sup>th</sup> April 2019, the deadline given for the appeal in the notice, is the correct date as it is unclear when the notice was sent to the applicant. In any event, it would be unreasonable to reject the appeal even if that date was wrong.
4. Rule 6 allows a tribunal to extend the time for complying with the 2013 Rules. In the present case, the Applicant did make an application for an appeal in respect of all five Financial Penalties on 11<sup>th</sup> April 2019. However, the application was returned on 15<sup>th</sup> April 2019 because he had sought to make one application for all five Financial Penalties whereas it is necessary to make five applications (one for each Financial Penalty and to pay a fee in respect of each penalty notice). The Procedural Judge found that it was not unreasonable for the Applicant to take approximately two weeks to resubmit his application in the correct manner and enclosing the required fee. In all the circumstances of the case, including the amount of the financial penalty, it was considered that there was good reason to extend time and therefore allow the application to proceed. Copies of the Applications were sent to the Respondent.
5. The appeal was to be by way of a re-hearing of the Respondent's decision to impose the penalty and/or the amount of the penalty, but it may be determined having regard to matters of which the Respondent was previously unaware. Further details were contained in the Annex to the directions
6. The appeal was in respect of five financial penalties issued to the Applicant by the Respondent under section 249A of the Housing Act 2004 for:
  - 1 Failure to licence a house in multiple occupation (HMO) contrary to section 72(1) of the Housing Act 2004 with a penalty of £5,000.00;
  - 2 Breach of the following regulations of the Management of Houses in Multiple Occupation (England) Regulations made under section 234 of the Housing Act 2004:
    - (a) Regulation 4, duty of a manager to take safety measures with a penalty of 10,300.00;
    - (b) Regulation 6, duty of a manager to supply gas and water with a penalty of 3,300.00;
    - (c) Regulation 7, duty of a manger to maintain common parts, fixtures, fittings and appliances with a penalty of 3,300.00;
    - (d) Regulation 8, duty of a manager to maintain living accommodation, with a penalty of 8,300.00.

7. Following investigations that were completed at the latest in June 2018 Notices of Intent were issued on 25<sup>th</sup> January 2019 giving the Applicant an opportunity to make representations by 26<sup>th</sup> February 2019. These were the second set of Notices of Intent issued. The first Notices were invalid as they were for incorrect penalties.
8. The Applicant made representations on 8<sup>th</sup> March 2019.
9. The Respondent was of the opinion that there was sufficient evidence adduced to support the making of the Financial Penalties and notwithstanding the representations made by the Applicant issued Final Penalty Notices on 12<sup>th</sup> March 2019. The Applicant applied to the Tribunal as stated above.
10. A hearing was listed for 17<sup>th</sup> September 2019 which was attended by the Applicant and Mr James Chadwick Solicitor for the Respondent. Immediately prior to the Hearing the Solicitor for the Respondent reviewed the evidence and found that contrary to paragraph 2(1) of Schedule 13A of the Housing Act 2004 the Notice of intent had not been given before the end of six months beginning with the first day on which the authority had sufficient evidence of the conduct to which the financial penalty relates.
11. Therefore, the Solicitor on behalf of the Respondent conceded that the Financial Penalties were invalid.
12. The Tribunal in exercise of its powers under paragraph 10 (4) of Schedule 13A of the Housing Act 2004 cancels the Final Notices.

**Judge JR Morris**

### **ANNEX - RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.