

VALUATION TRIBUNAL FOR ENGLAND



Non-Domestic Rating Appeal; 2010 Rating List; deletion of entry in rating list from 1 April 2010; stables and premises, failure to comply with standard directions; Appeal dismissed.

RE: Stables (Perrior), New Town Farm, Bickenhall, Taunton, Somerset, TA3 6UF

APPEAL NUMBER: 331525947695/541N10

BETWEEN: A T & J Perrior Appellants

and

Dal S Virk
(Valuation Officer) Respondent

BEFORE: Mr P J Hickson (Senior Member)

CLERK: Mrs A Sloan

REMOTE
HEARING ON: 26 April 2021

APPEARANCES: Mr M Pearson for the Valuation Officer (Respondent)

Summary of Decision

1. The appeal was dismissed for failure to comply with standard directions.

Background

2. I heard this appeal alone as my fellow panel member was unable to attend at short notice. The Tribunal's business arrangements permit me to hear this appeal alone in such circumstances.
3. The subject hereditament was entered into the valuation list with effect from 1 April 2010 by Valuation Officer (VO) Notice dated 13 March 2015. A proposal

was lodged with the VO by the Appellant on 4 August 2015 seeking deletion of the entry made in the list.

4. The appeal was first listed for hearing on 21 February 2017 but was postponed and stayed pending the outcome of a relevant appeal to the Upper Tribunal. Following the decision on that case (*Corkish (VO) v Fiona Bigwood* [2019] RA/52/2017) the appeal was re-listed for hearing on 17 March 2020.
5. The Appellant did not attend the hearing on 17 March 2020 and had not complied with the Tribunal's standard directions. He sent an email to the Tribunal seeking a postponement as he required more time to consider the judgment in the Bigwood case, which had been supplied to him by the VO. He offered no explanation for his failure to comply with the Tribunal's standard directions. On this occasion the presiding Senior Member agreed a further postponement and issued directions that, if the appeal were not settled in the meantime and the Appellant still wished to pursue his appeal, he should follow the standard directions on the appeal's next listing.
6. The appeal was then listed for hearing on 26 April 2021 and a Notice of Hearing with standard directions issued to both parties on 26 January 2021.
7. The standard directions require the parties to exchange evidence to a prescribed timetable and the Appellant is responsible for serving on the Tribunal and the Respondent a consolidated evidence bundle. This bundle must contain both parties' evidence and any rebuttal he wished to make on the Respondent's evidence, no later than two weeks before the hearing. No evidence bundle was served.
8. In the absence of a hearing bundle, the clerk to the Tribunal contacted the Appellant to confirm if the appeal was still active as no evidence had been provided. There followed a number of exchanges between the clerk and the Appellant, where the Appellant confirmed he still wished to continue with his appeal, but he would not be attending the remote hearing. Mr Perrior forwarded some emails that he had sent to the VO case worker, Mr Pearson, during the disclosure period but he still failed to supply a formal evidence bundle including the Respondent's case.

Preliminary Issue and decision

9. At the hearing, Mr Pearson raised the preliminary issue that the Appellant had failed to comply with the Tribunal's standard directions. Mr Pearson had provided copies of the evidence exchanged between the parties during the disclosure process, but he asked me to dismiss this appeal as the Appellant was in breach of the Tribunal's directions.
10. In considering a breach of the Tribunal's directions, I must have regard to the three-stage test set out in *Denton v TH White Ltd* [2014] 1 WLR 3926 before applying sanctions. Stage one requires me to determine the significance and seriousness of the breach: if the breach is neither, then relief should usually be granted. At stage two I must consider the reasons why the failure and default occurred: if the defaulting party has good reasons to explain what happened, relief should usually be granted. Finally, at the third stage, I must have regard to all of the circumstances of the case, the need for litigation to be conducted efficiently and at proportionate costs, that the failure to grant relief may leave an

inaccurate entry in the rating list and the need to enforce compliance with the rules, directions and orders of the Tribunal.

11. The Appellant had forwarded some emails that he had sent to the VO which could be interpreted as his statement of case and rebuttal, but he had failed to provide a copy of the Respondent's case. Mr Pearson provided me with a copy of the email he sent to Mr Perrior on 1 April 2021 in response to the Appellant's query on how he could respond to the VO's statement of case. Mr Pearson's email explained clearly that the Appellant should serve his rebuttal along with both parties' statement of case by 12 April 2021 and provided details of the email addresses on which the evidence should be served. Links were also provided to the Tribunal's website where the standard directions could be found. I therefore found that the Appellant's failure to serve a consolidated evidence bundle was a serious breach of the Tribunal's directions.
12. At stage two I must consider the reasons for the breach. Mr Perrior has not provided any reason for his failure to serve both parties' evidence on the Tribunal. He replied to the clerk's email stating he had been in discussions with Mr Pearson and had accepted an offer to reduce the Rateable Value (RV) of the subject hereditament, which was subsequently withdrawn by Mr Pearson on 29 March 2021. This is noted, but does not explain why Mr Perrior, after asking Mr Pearson how he could go about responding to the VO's case, still failed to correctly serve an evidence bundle by 12 April 2021. I therefore found that no good reason had been supplied for the breach of the Tribunal's directions.
13. At stage three of the test, I must consider the circumstances of the case. I noted that this is the third listing of this appeal and that the Appellant had been repeatedly reminded of the requirement to comply with directions from the Tribunal. Mr Perrior's emails forwarded to the clerk suggest that he disagreed with some elements of the Respondent's case. However, rather than serve a rebuttal and provide the Tribunal with the parties' evidence, he failed to supply the Respondent's case at all and, in his email of 9 April 2021, asked the Tribunal to disregard the VO's evidence.
14. Mr Perrior chose not to attend this hearing despite being aware it was to be conducted via Microsoft Teams, so he could participate by video link or dial in by telephone. As he was not present to answer questions, in order to further clarify his actions, I was unable to conclude that it was in the interest of justice to lift sanctions following repeated failures to comply with directions from the Tribunal. The Appellant was aware of the requirement to serve evidence from the bespoke directions issued in March 2020, the standard directions included with the Notice of Hearing and was reminded of how and where to serve the evidence by the Respondent, yet he failed to comply. I therefore decided not to lift sanctions and the appeal was dismissed.

Date: 11 May 2021

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