THE VALUATION TRIBUNAL FOR ENGLAND

National Non Domestic Penalty Notice Appeal – Local Government Finance Act 1988 (as amended) – time in supplying requested information – extension granted – information not returned until after end of period – appeal dismissed.

Re: Red Lion, 44 Wells Road, Stiffkey, Wells-Next-The Sea, Norfolk, NR23 1AJ

APPEAL NO: VT00008493

BETWEEN: Mr C Cooke of Stiffkey Red Lion Ltd Appellant

And

Mrs Jo Moore (Valuation Officer) Respondent

PANEL: Mr R Cammidge (Senior Member)
Mrs A Taylor

CLERK: Mr G Wayman

REMOTE HEARING: 7 January 2022

APPEARANCES:

Mrs E Mellors representing the Valuation Officer (Respondent)

Summary of Decision

1. Appeal Dismissed. The Penalty Notice must stand.

Introduction

2. The appeal before the panel relates to an appeal dated 6 September 2021 against the Valuation Officer's Penalty Notice dated 24 August 2021.

3. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

4. Therefore, in pursuance of regulation (6)(3)(g) the VTE has incorporated “remote hearings” as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal’s Consolidated Practice Statement has been amended to reflect this

5. The appellant was unable to attend the hearing but requested the appeal be heard in his absence in his email of the 4 January 2022.

6. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties’ evidence. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as an indication that that statement or item of evidence has been overlooked.

Issues

7. The issue before the panel concerned the imposition of a Penalty Notice.

Decision and Reasons

8. Under paragraph 5 of Schedule 9 of the Local Government Finance Act 1988 the Valuation Officer may serve a notice on a person who is the owner or occupier of a hereditament requesting him to supply the Valuation Officer with information which she believes will assist in carrying out functions conferred or imposed on her by or under this part. The legislation insists that the person on whom the notice has been served shall supply the information requested in such form and manner as specified in the notice. Failure to comply with the notice within 56 days beginning on the day that the notice was served may result in a penalty of £100.

9. In this case the panel was informed that the original form of return requesting information for the 2023 revaluation exercise was sent on 10 June 2021 however taking into account posting it was not deemed to be served until 17 June 2021. In line with the relevant legislation the form was due to be returned within 56 days of service which would be by 12 August 2021 at the latest. A first reminder was issued on 14 July 2021 a second reminder was sent on 29 July 2021 and telephone contact was made with a member of staff at Stiffkey Red Lion Ltd (Sharron) on 9 August 2021, who promised that the form would be chased up. Following communications between the parties the Valuation Officer granted a short extension. However, as no form had been received within the statutory time period outlined in the legislation a penalty notice letter dated 24 August 2021 was issued to the appellant. The form of return was eventually returned on 27 September 2021. The Valuation Officer stated that the timely return of the information requested was essential in order to carry out the duty of drafting the 2023 Rating List.

10. In his appeal form the appellant gave the following reasons why the form of return was not completed and returned on time:

11. *'After re-opening our pub in May of this year we have experienced a shortage of key personnel. The person who would have dealt with the request for further information was not able to reply in a timely manner due to being switched to a customer facing position. It really has been a very difficult period with many of us working 60/70 hours per week. I would be very grateful if you would consider cancelling this penalty due to our extremely difficult trading conditions.'*

12. The panel found it unfortunate that the appellant did not attend in order to expand on the reasons why the form of return had not been completed and returned on time. In particular why when the form of return was presented it was returned, we are advised by an accountant, and not a member of staff referred to and any timescales as to when the request was made to the accountant to complete the task. However, the panel can only make a decision based upon the evidence placed before it at the hearing.

13. The panel sympathised with the appellant's circumstances and understood why an appeal against the imposition of the penalty notice was made. However, the panel accept that the information requested was required by the Valuation Officer to assist in the execution of her duties. It was noted that the information was first requested on 17 June 2021 and despite reminders and also an extension of time the form was not returned until 27 September 2021, which was outside the statutory time limits stated in the relevant legislation. The panel consider that as the information had not been returned within the specified time and there having also been an extension granted accept the Valuation Officer was correct to impose a penalty and that the appellant had not persuaded the panel otherwise. The panel found that no reasonable excuse had been provided for failing to submit the relevant information within the required timeframe. The appeal was therefore dismissed.

Appeal No: VT00008493

Dated: 12 January 2022