THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating penalty appeal; information sought by the valuation officer had not been provided within 56 days; no extension of time had been requested by the appellant; appeal dismissed.

RE: The Pheasant Inn, Flookburgh Road, Allithwaite LA11 7RQ

APPEAL NUMBER: VT00009665

BETWEEN:	Jones the Pub Ltd	Appellant
	and	
	Ms A Hitchings (Valuation Officer)	Respondent

BEFORE: Mr D Greensmith (Presiding Senior Member)
Miss L Moses (Senior Member)

CLERK: Miss F Willson

HEARING: 22 November 2022

APPEARANCES: Ms K Giles (on behalf of the respondent)

Summary of decision

1. Appeal dismissed. The panel decided not to mitigate or remit the penalty.

Introduction

2. This was an appeal against the levy of a civil penalty on the appellant due to his failure to respond to the information request in respect to non-domestic properties. The relevant paragraphs are paragraphs 5, 5A and 5B of Schedule 9 to the Local Government Finance Act 1988, as inserted by section 72 of the Local Government Act 2003, which provides the Valuation Officer (VO) with the power to levy civil penalties on the owners or occupiers of hereditaments who fail to provide the information requested, which the officer reasonably believes will assist him in carrying out his functions, within 56 days.

3. The appellant had been served with a notice by the VO in which information was sought with regards the 2023 non-domestic rating revaluation in respect of The Pheasant Inn, Flookburgh Road, Allithwaite LA11 7RQ (subject property) on 6 May 2021. The appellant had then been issued with a first reminder on 7 June 2021, a second reminder on 21 June 2021, an advance notice of a penalty on 12 November 2021 and a penalty notice on 14 December 2021 setting a fixed penalty of £100. The appellant had subsequently provided the information on 24 December 2021.

4. The appellant was not present at the hearing. He had provided a written submission prior to the hearing and requested that the matter be dealt with in his absence in accordance with the tribunal's standard directions.

5. This tribunal decision document is not and does not purport to be a verbatim record of proceedings but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

6. The penalty amount of £100 which the appellant had paid on 22 December 2021. The appellant wanted the full amount remitted.

Decision and reasons

7. Paragraph 5C of Schedule 9 allows an appeal against the imposition of a penalty to the VTE within 28 days of the notice. The Valuation Tribunal for England (VTE) may mitigate or remit a penalty if it is satisfied on either or both of the following grounds:

   (a) that the appellant had a reasonable excuse for not complying with the request, or

   (b) that the information requested is not in the possession or control of the appellant.

8. In respect of such an appeal the VTE may either mitigate or remit any penalty charge if it is satisfied on either or both of the grounds specified in the relevant legislation.

9. The appellant argued that the previous two years had been very hard on the licensed and leisure trade and the restrictions imposed as a result of Coronavirus had made things very difficult. When he appealed the 2017 complied list entry for the subject property the appellant in his opinion had been penalised for supplying the correct details with a higher rateable value than other similar premises in the area. He believed that other businesses had failed to complete their Form of Return (FOR) and had been given a lower rateable value as a result.

10. Ms Giles submitted that it was for the VO to determine when a penalty notice is appropriate and the appellant had been given sufficient reminders about completing the FOR before any penalty had been imposed. She did not believe that this was a reasonable excuse for not completing his FOR before the penalty was imposed and requested the panel not to mitigate or remit the penalty.

11. The panel found that the reasons put forward by the appellant for not completing his FOR before the penalty notice was issued were not reasonable and therefore dismissed the appeal.

Date: 28 November 2022

Appeal number: VT00009665