THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating penalty appeal; information sought by the valuation officer had not been provided within 56 days; appeal dismissed.

RE: Barrow Arms Hotel, 26-28 Cavendish Street, Barrow in Furness LA14 1SB

APPEAL NUMBER: VT00009776

BETWEEN:	The Barrow Arms Ltd and	Appellant
	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, 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 Barrow Arms Hotel, 26-28 Cavendish Street, Barrow in Furness LA14 1SB (subject property) on 19 April 2021. The appellant had then been issued with a first reminder on 19 May 2021, a second reminder on 2 June 2021, an advance notice of a penalty on 18 November 2021 and a penalty notice on 15 December 2021 setting a fixed penalty of £100. The appellant had subsequently provided the information on 29 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 wanted to be remitted in full.

Decision and reasons

7. Paragraph 5C of Schedule 9 allows an appeal against the imposition of a penalty to the Valuation Tribunal for England (VTE) within 28 days of the notice. The 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 he had not received any of the letters and reminders which had been sent as they were sent to the subject property and the appellant did not live at that address. He stated that the pub was closed for various periods of time due to the Coronavirus pandemic and he was unable to visit the subject property due to the Government restrictions. He did not know about the form of return (FOR) until he received the penalty notice and he completed and returned the FOR as soon as he received it.

10. Ms Giles submitted that the appellant had been given sufficient reminders about completing the FOR all sent to the same address before the penalty. She did not understand how all the other notices had failed to arrive at the subject property except for the penalty notice. She did not consider that this was a reasonable excuse for not completing the FOR before the penalty was imposed and requested the panel not to mitigate or remit the penalty and to dismiss the appeal.

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: VT00009776