

Y TRIBIWNLYS EIDDO PRESWYL  
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RPT/0051/09/18

In the Matter of an Application under paragraph 11(1) and 11(3) Part 3 of Schedule 3 to the Housing Act 2004, appeal against demand for recovery of expenses.

APPLICANT: Ms Nia Lloyd

RESPONDENT: Wrexham County Borough Council.

**DECISION ON APPLICATION TO APPEAL OUT OF TIME**

**The tribunal allows the appeal to proceed.**

**REASONS FOR THE TRIBUNAL'S DECISION.**

**Background.**

1. By a letter dated 16<sup>th</sup> of August 2018, the Respondent Council sent a prohibition order to the applicant in relation to the 2<sup>nd</sup> floor bedroom at 16 Norman Rd, LL137 BE together with a demand for payment of a charge for taking enforcement action under sections 49 and 50 of the Housing Act 2004 ("the Act"). Appeal against both of these matters, the order and the demand for expenses, is to the Residential Property Tribunal. The time limit for appealing the prohibition order is within 28 days beginning with the date specified in the notice. The time limit for appealing against the demand for expenses is within the period of 21 days beginning with the date of service of the demand or copy of it. The document was dated 16<sup>th</sup> August and would have been deemed to have been served on Saturday, 18<sup>th</sup> August 2018. Twenty one days after that date is Saturday, 8<sup>th</sup> September 2018.
2. On Monday 10 September 2018 the tribunal received an application form from the applicant appealing against these matters which had been dated and signed with a statement of truth on 5 September 2018. On the same day the tribunal received a covering letter dated 5 September from Ms Lloyd seeking an extension of time to collect and seek advice about the order made by the Council. This also explained that Ms Lloyd was away on holiday from 15 August until 2 September and so had not received the notice until returning from holiday and then collecting and signing the recorded delivery letter from the main post office collection department in Wrexham.
3. The appeal against the prohibition order was thus made to the tribunal in time and the appeal against the expenses was to come in the days late but effectively arrived upon the 1<sup>st</sup> working day after the expiry of the 21 day appeal limit. The tribunal have taken

the letter of 5 September to be an application to appeal out of time in relation to the expenses.

**Law.**

4. Paragraph 11(3) of Part 3, Schedule 3, Part 3 of the Act states that *“the appropriate tribunal may allow an appeal to be made to it after the end of the [appeal period] if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).”* Further, regulation 4 of the Residential Property Tribunal Procedures and Fees (Wales) Regulations 2016 deals with requests for extensions of time to make an application and further adds that any request must be in writing and give reasons for the failure to make the application before the end of that period and for any delay since then, to include a statement that the person making the request believes that the facts stated in it are true, and is to be dated and signed. Further the applicant making such a request must at the same time send the completed application to the tribunal. Ms Lloyd sent in the application form duly signed with the statement of truth and she has given reasons for the short delay, principally that she was on holiday.
  
5. I also remind myself that regulation 3 relates to the overriding objective of the tribunal. The tribunal when exercising any power under the Regulations or interpreting any Regulation must *“seek to give effect to the overriding objective of dealing fairly and justly with applications which it is to determine”*. Further guidance is given in Regulation 3(2) about dealing with an application fairly and justly and these include *“(2)(a) dealing with it in ways which are proportionate to the complexity of the issues and to the resources of the parties;*  
*(b) ensuring, so far as practicable, that the parties are on an equal footing procedurally and are able to participate fully in the proceedings”*.

**Decision**

6. Ms Lloyd wrote her letter to the tribunal on Wednesday, 5 September 2018 which was within time. It is a curious feature of the Act that the time limit for appealing against the prohibition order differs from the limit for appealing against the expenses claimed in connection with the production of that prohibition order and taking the associated enforcement action. Ms Lloyd was upon holiday until 2 September 2018, a Sunday. She has clearly taken this matter seriously, has applied promptly to the tribunal and is seeking advice. In the circumstances I consider that there is a good reason for the failure to appeal the expenses demand before the end of the 21 day period and that the tribunal’s overriding objective of dealing fairly and justly with applications means that her appeal against the expenses should be allowed to proceed.

7. In considering this matter, I have dealt only with the procedural application. I have not considered the substantive matters. Those matters will be dealt with in due course by a fully constituted tribunal after directions have been given for the preparation of the case.

DATED this 28<sup>th</sup> day of September 2018.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

CHAIRMAN