



Appeal number: CA/2014/0012

**FIRST-TIER TRIBUNAL (CHARITY)
GENERAL REGULATORY CHAMBER**

PAMELA KENNAUGH

Appellant

- and -

**THE CHARITY COMMISSION FOR
ENGLAND AND WALES**

Respondents

TRIBUNAL: JUDGE ALISON MCKENNA

Sitting in Chambers on 13 October 2014

Having considered a Notice of Appeal submitted by the Appellant, the Respondent's submission dated 7 October and the Appellant's submission in reply dated 10 October 2014

IT IS DIRECTED that

1. The Appellant has 14 days in which to make representations in relation to the proposed striking out of this appeal under rule 8(2) (a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 on the basis that the Tribunal has no jurisdiction to determine it.

REASONS

2. The Notice of Appeal concerns the Kelly Bray Women's Institute, which is said to have been registered under the number 216184 but to have been de-registered in 2009.

3. The Notice of Appeal is signed 25 March 2014 but was lodged with the Tribunal on 1 October 2014. The Notice of Appeal seeks to appeal against a decision of the Charity Commission dated 4 July 2014 (although it has now been accepted that the relevant date was 21 July). The application was therefore received by the Tribunal out of time. The Appellant states that the reason for the late application was that she was waiting to find out if she would receive assistance from another charity before applying to the Tribunal and only found out that she would not receive such

assistance on 9 September. It is not clear what happened between 9 September and 1 October 2014 and why there was a further period of delay. It is not necessary for me to decide whether to allow this matter to proceed out of time as I have concluded that it should be struck out for other reasons.

4. The Appellant describes herself on the Notice of Appeal as a trustee of the charity. The Charity Commission denies that she is a trustee and asserts that she has no standing to bring an appeal. However, I do not need to decide that issue as I have concluded that the appeal should be struck out for other reasons.

5. The Notice of Application does not itself specify what decision the Respondent had made so as to fall within column 1 of schedule 6 to the Charities Act 2011 and states that the Appellant was herself unsure whether the “casual” e mail from the Charity Commission constituted a “decision” for the purpose of making an appeal. In subsequent correspondence she has submitted that she had applied for an order under s. 105 of the 2011 Act and that the application was refused, so that an appealable decision has been made.

6. The Respondent stated that it has not made an appealable decision under s. 105 or any other provision of the Act. I have considered carefully the copy correspondence submitted with the Notice of Appeal and I have read carefully all of the Appellant’s submissions. Nevertheless I have not been able to identify an occasion on which a clearly-made request for an order under s. 105 of the 2011 Act was made as the Appellant’s solicitor appears to have made an application for an unspecified type of order. The Charity Commission’s e mail of 21 July gives advice about the general legal situation regarding the charity’s property, without clearly refusing to make an order.

7. As a matter of law, the Tribunal may accept applications to appeal decisions only where the decision falls within column 1 of schedule 6 to the Charities Act 2011. Having considered the Notice of Appeal and the representations made by both parties, I am not satisfied that the Respondent has made a decision falling within column 1 of schedule 6 to the 2011 Act in this case. Accordingly, it is my conclusion that the Tribunal has no jurisdiction in this matter and that the appeal must be struck out.

8. As I may not strike out an appeal under rule 8 (2) without first giving the Appellant an opportunity to make representations under rule 8 (4) I am now inviting the Appellant to make any further representations within 14 days of the date appearing below, which I will consider before making a final decision.

TRIBUNAL JUDGE
RELEASE DATE:
13th October 2014

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