

TRIBUNALS COURTS AND ENFORCEMENT ACT 2007

SOCIAL SECURITY ACT 1998

RULING BY JUDGE OF THE UPPER TRIBUNAL

Claimant's Name: David Ferguson

Upper Tribunal File: CSGIA/206/2011

First-tier Tribunal of: 14 October 2010 at London

Case No: EA/2010/0085

1. On 18 July I made a direction in the following terms.

“On 3 June I made a direction in the following terms:

1. The decision of the First-tier Tribunal which is the subject of this application for permission to appeal was that the Electoral Commission was entitled to withhold answers to two questions posed to it namely numbers 22 and 26. The decision notice is set out at page 70. The applicant has set out his grounds of appeal at pages 38 to 54 and has set out in a document dated 8 April additional submissions recorded at page 128 to 131. The Upper Tribunal expects that grounds of appeal to it should contain brief and succinct propositions explaining how it is asserted that the First-tier Tribunal erred in law. Grounds can of course be supplemented by submissions.

2. In this case the grounds of appeal have not been presented in this form. In these circumstances I direct the applicant to focus concisely how it is that he asserts that the tribunal erred in law in holding that the Electoral Commission was entitled to withhold the answers to questions 22 and 26 on the ground that they fell within the exemption in the Freedom of Information Act section 40(2).

3. I allow the application fourteen days from the date of dispatch of this direction to him to respond to it.”

No response to that direction was received from the applicant within the period stated in the Direction. In these circumstances the Office of the Upper Tribunal sent the following communication to the applicant. It said:

“On 6 June 2011 we sent you a Direction from the Upper Tribunal Judge to your home address, giving you 14 days to respond. We have not as yet received a reply. However, as we are aware that you may be working abroad, I have attached the Direction to this email and, if you need more time to respond, would invite you to request in writing an extension of time from the judge.”

No response has been made by the applicant to that communication. Regulation 8(3) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provides:

- “(3) The Upper Tribunal may strike out the whole or part of the proceedings if –
- (a) the appellant or applicant has failed to comply with the direction which stated that failure by the appellant or applicant to comply with the direction could lead to the striking out of the proceedings or part of them.”

In order to properly determine the applicant’s application for permission to appeal it requires a response to my direction of 3 June 2011. I direct that this response should be made within one month of the date of despatch of this further direction to the applicant. The failure by the applicant to comply with the direction could lead to the striking out of the proceedings.”

The direction was dispatched to him on 18 July 2011. It was sent to him by post and by email on that date. He has not responded to it within the time stated in the direction. In these circumstances the proceedings are struck out.

(Signed)
D J MAY QC
Judge of the Upper Tribunal
Date: 25 August 2011