



Tribunals Service

Information Tribunal

Case No: EA/2006/0082

In the matter of Robert Gourlay v The Information Commissioner & Chief
Constable of South Wales Police

The Information Tribunal (Enforcement Appeals) Rules 2005

Ruling

Mr Gourlay served a notice of appeal on the Tribunal dated 24 October 2006 appealing against the Commissioner's decision notice dated 28 September 2006. The Tribunal acknowledged the notice by letter on 30 October 2006, served it on the Commissioner who entered a reply dated 21st November 2006 which was copied to Mr Gourlay. The communication was by post using the address provided by Mr Gourlay in the notice of appeal, namely 35 Clare Street, Manselton, Swansea, SA5 9PG. No other means of communication was provided.

The Tribunal gave notice of a directions hearing on 30 November 2006 to be held by way of telephone conference on 21 December 2006. On 9 December 2006 Mr Gourlay requested postponement of the hearing because he would be attending Bristol Crown Court at the time. The Tribunal set another date and informed the parties accordingly. In the meantime South Wales Police were joined as a party. Mr Gourlay without prior notice did not attend the rearranged hearing on 31 January 2007, but a few days after the hearing, the Tribunal received a fax stating that unfortunately Mr Gourlay had been involved in a road accident and would not be in a position to do much over the next 4 weeks. Directions were issued to the parties on 2 February 2007 as they would not involve Mr Gourlay in any immediate actions and in order to progress the appeal.

The Tribunal acknowledged the fax on the 2nd February 2007 providing Mr Gourlay with an update of the proceedings and the orders made by the Tribunal. On 27 February 2007 the ICO informed the Tribunal that it had failed in its efforts to contact the appellant. On 26 April 2007 the Tribunal sent him a letter with provisional dates (16/17 July 2007) for a final hearing. On 26 April the ICO again informed the Tribunal that its continuing efforts to communicate with the appellant had also failed and that as a result it could not comply with the Directions. The Tribunal then wrote to Mr Gourlay on 27 April 2007 explaining the consequences of non compliance with direction orders. Mr Gourlay replied to this letter on 30 May 2007 explaining that his accident and litigation would make it difficult to attend an oral before the end of August

2007. He also advised that he had changed address to 10 Cross Street, Manselton, Swansea, SA5 9LS and that he had advised of this by letter dated 12 December 2006. The Tribunal did not receive this letter and notes that Mr Gourlay continued to appear to receive correspondence from the Tribunal at the first address after 12 December 2006.

As a result the Tribunal revised its directions on 11 June 2007 to provide a new timetable for the case to fit Mr Gourlay's requirements and sent them to Mr Gourlay pointing out that it was essential that he co-operate with the other parties and comply with the orders in the Revised Directions otherwise the Tribunal would consider exercising its powers under rule 14(9) (a) of the Information Tribunal (Enforcement Appeals) Rules 2005 to dismiss the whole or part of the appeal. The Tribunal also suggested to Mr Gourlay that he ensure that the Tribunal and other parties were kept informed at all times of his current address, telephone number and email address (if appropriate) in order to ensure effective communications. This letter was sent to his second address on 11 June 2007.

Since then neither the parties nor the Tribunal have been able to contact Mr Gourlay despite various attempts to do so and have not received any communications from him. The Tribunal has given notice as required under rule 14(10) so as to give him the opportunity to comply with directions.

The Tribunal has done its best to accommodate Mr Gourlay. He has not kept in touch despite the Tribunal's efforts to enable him to do so. All recent correspondence has either been returned because there was no one to accept the letters at Mr Gourlay's address or those sent by ordinary post have not been replied to. The case cannot proceed without Mr Gourlay's active participation. Also the Tribunal cannot allow cases to remain outstanding to the inconvenience and cost of the Tribunal and other parties. With regret we find it necessary under rule 14 (9) (a) to dismiss the whole of Mr Gourlay's appeal.

Signed

John Angel
Chairman of The Tribunal

16 July 2007