

IT(EA)R Rule 5 – Time limit for appealing

Mr John Crossley v IC

EA/2007/0008

26th March 2007

Cases:

Facts

The Appellant sought to appeal against the IC's Decision Notice. He contacted the IC's office on 20th December 2006, one day before the appeal needed to be lodged in order to ask about an appeal. The Appellant informed the IC's office that he suffered from numerous disabilities, making him unable to complete the necessary appeal forms. Subsequently, a clerk at the Tribunal completed a blank form on the Appellant's behalf, but left the 'grounds of appeal' section blank as the Appellant had said he wished to consider them in more detail. This form was sent to him for him to sign. The Appellant did so and sent it back to the Tribunal who received it on 22nd December, one day out of time. The Appellant received a call from the Tribunal service on 28th and 29th December asking on what grounds he would like to appeal. These grounds were drafted and sent out to him to sign. The Appellant sent back the signed documents which the Tribunal received on 4th January 2007.

The Appellant argued that the appeal should be heard because his disabilities meant that he should receive special circumstances under Rule 5(3).

Findings

The Tribunal found that disability or illness can clearly be special circumstance, but not in this case. Handwriting difficulties were not a contributory factor here as they were immediately overcome on telephoning the Tribunal. The Tribunal was not persuaded on evidence that the appellant was affected by depression in the relevant period as there was no medical evidence and the appellant accepted that he would have been able to deal with appeal.

With regard to the omission of the grounds of appeal, the Tribunal left undecided whether their omission meant that the appeal was not served on the Tribunal until they were completed.

Conclusion

No special circumstances present, and the appeal was submitted one day out of time. It was therefore summarily dismissed. However, if "special circumstances" had been present, the further test – "just and right to extend time" would have been satisfied since the delay was minimal and there was no prejudice to other parties.