

Case Name: *Benchmark Furniture Limited [2018] UKUT 170 (LC) (5 July 2018)*

Topic: Procedural: VTE strike out for non-compliance with directions reversed by the Upper Tribunal

Full case: [click here](#)

Summary: Following the failure to file a statement of case the VTE struck out the proceedings, although the ratepayer had apparently not received notice of the hearing and was, therefore, unaware of the requirement. The Upper Tribunal was critical of this approach, as the VTE had not dealt with the substance of the appellant's case for reinstatement, and it granted the appeal, directing a fresh hearing.

Commentary: This Upper Tribunal decision related to an appeal from the VTE following a strike out due to failure to file a statement of case with the tribunal. The VO was not party to the appeal, due to the subject matter.

The relevant VTE practice statements governing the timetable were those applicable prior to 1 April 2017, when a new consolidated practice statement came into effect.

The ratepayer had vacated its head office premises some time prior to the receipt of a rates demand and moved to a new address, following which a proposal was submitted for the deletion of the premises from the rating list on the grounds that they were incapable of occupation due to the theft of copper plumbing and wiring. Nothing further was heard by the ratepayer for some months, when the VO informed the ratepayer that the proposal had been programmed for discussion, with a target date for resolution just two weeks after receipt of the VO's letter.

The VTE subsequently issued a notice of hearing, but it is unclear whether this was received by the ratepayer (it appears it may have been sent to the appeal property, not the head office which was dealing with the matter). A letter was then sent by the VTE about a month later, giving notice that the appeal had been struck out owing to a failure to lodge a statement of case with the tribunal (according to the tribunal this was sent to the same address as the notice, but this latter communication was clearly received by the appellant). An application for reinstatement of the case was refused, the VTE stating in effect that as the notice had been issued by the tribunal it must have been received by the ratepayer. The tribunal did not, however, properly consider the appellant's case that the document had not arrived.

The grounds of appeal to the UT were that the notice of hearing had been sent to the wrong address and that, even if it had been sent to the correct address, the ratepayer had not received it. The tribunal decided that the VTE's consideration of the case fell below the required standard by omitting to deal in its decision with the substance of the ratepayer's case for reinstatement.

The UT declined to remit the appeal to the VTE for further consideration. Instead, it ordered that the VTE reinstate the appeal and issue a fresh notice of hearing to the ratepayer.