

**Case name:** *UKI (Kingsway) Limited v Westminster City Council* [2018] UKSC 67 (17 December 2018)

**Topic:** Completion notices – service

**Full case:** [click here](#)

**Summary:** A completion notice simply addressed to “the owner” personally served on a third party not connected to the occupier but passed to it electronically by that third party nevertheless constitutes effective service on the occupier. This was despite the method of service not being compliant with the relevant Regulations.

**Commentary:** This case relates to the method of service of a completion notice bringing premises into the 2010 rating list following a redevelopment of an office building. The date referred to in the notice was 1 June 2012, on which date the premises would have been subject to business rates in the absence of a successful challenge.

The owner of the building (UKI) had not been disclosed in prior discussions between the appointed rating surveyors and the billing authority and no agreement could be reached as to the date when the premises would be brought into the list. The building was managed by another company (Eco FM, “Eco”), which had no authority to accept service of any documents. UKI did not occupy any part of the building.

On 5 March 2012 a completion notice (referring to 1 June 2012, as above) was delivered by hand to the building by the billing authority and handed to a receptionist employed by Eco. The notice was addressed to “Owner, 1 Kingsway, London WC2B 6AN” and did not identify the owner by name. By 12 March the receptionist had scanned a copy of the notice to UKI but the original notice had been lost (presumed destroyed).

The original appeal against the completion notice contended that service was invalid as it did not comply with the statutory requirements. The Valuation Tribunal for England (“VTE”) considered (1) whether a completion notice is invalid if it fails to state the name of the intended recipient (where it was not suggested that the name could not be ascertained by reasonable inquiry) and (2) whether the completion notice in this case had been validly served.

The statutory provisions establish a deemed basis for imposing tax by providing for the service of a completion notice effective either immediately (where the building is considered by the billing authority to be ready for immediate occupation) or on the date stated in the notice, being not more than 3 months thereafter. The process of service of that notice is clearly set out (e.g. registered letter, recorded delivery or any other mode of service, which may include personal service) and where the identity of the owner cannot be ascertained after reasonable inquiry it can be addressed to the owner of the building (described in the notice as such) and by affixing it to “some conspicuous part of the building”. The VTE held that electronic service of completion notices is not specifically provided for and is, therefore, not permissible.

The VTE decided in favour of UKI and the premises were removed from the list. The reasoning was that the absence of the owner’s name on the completion notice or its

envelope was fatal to effective service (the only situation in which such omission would be excusable is where the notice had been affixed to a conspicuous part of the building, as provided for in the Regulations).

The Upper Tribunal ("UT") reversed the VTE's decision and held that the notice had been validly served. The reasoning was that the mode of service was not critical provided the notice was delivered in such a way as to come into the hands of the intended recipient. The fact that it arrived in electronic form was, likewise, not fatal.

The Court of Appeal allowed UKI's appeal and directed that the premises should be removed from the rating list. The requirements for service had not been met and in the words of the judgement "it would be surprising ... that electronic service of a completion notice to a building owner by an unauthorised third party [Eco in this case] would be sufficient to amount to valid service".

The Supreme Court heard the case on 6 November 2018 and commented that the method of attempted service adopted by the council was far from ideal. The name and address of the owner could have been established by reasonable inquiry and there was no indication as to why such inquiry was not made. However, the court went on to determine the two issues before it:

1. Was indirect service (via Eco) sufficient to establish a causal link between the authority's actions and receipt of the notice by UKI? The court held that it was sufficient, although not ideal as it introduces an element of uncertainty as to the date of service, which in the case of a completion notice where a building is ready for immediate occupation (as opposed to being ready on the date specified in the notice, being not more than 3 months after the issue of the notice) is determinative of commencement of liability for business rates; and
2. Are electronic communications a valid means of effecting service? The court ruled that the general law prior to the Electronic Telecommunications Act 2000 (which made specific amendment to the Companies Act to authorise certain communications by electronic means) is presumed to continue in force and informal means of service may still be effective. On the facts of this case, the notice was successfully served.

Accordingly, the Supreme Court restored the order of the Upper Tribunal and the building was directed to be included in the rating list with effect from 1 June 2012.