UPPER TRIBUNAL (LANDS CHAMBER)

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3 February 2023

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

HOUSING – RENT REPAYMENT ORDER – defence of reasonable excuse – additional licensing designation – landlord waiting to be contacted by local housing authority – need for excuse to remain reasonable for duration of offence – s.72, Housing Act 2004 – appeal allowed

AN APPEAL AGAINST A DECISION OF THE FIRST-TIER TRIBUNAL (PROPERTY CHAMBER)

BETWEEN:

MR GEORGE MARIGOLD (1)
MS KATHRYN BRYANT (2)
MS SASKIA HUGHES (3)
MS MARTHA RICHARDS (4)
MR CHARLIE WILLIAMS (5)

Appellants

-and-

MR ROBERT WELLS

Respondent

Re: 4 Weddell House,
Duckett Street, London E1

Martin Rodger KC, Deputy Chamber President

17 January 2023

Cameron Neilson, of Justice for Tenants, for the appellants
Sebastian Reid, instructed by Archstone Solicitors, for the respondent

The following cases are referred to in this decision:

Assicurazioni Generali SpA v Arab Insurance Group [2003] 1 WLR 577

D'Costa v D'Andrea [2021] UKUT 144 (LC)

Edwards v Bairstow [1956] AC 14

Perrin v HMRC [2018] UKUT 156 (TCC)

Prescott v Potamianos [2019] EWCA Civ 932

Introduction

1. In a decision given on 16 March 2022 the First-tier Tribunal (Property Chamber) (the FTT) determined that the respondent, Mr Robert Wells, had a reasonable excuse for having had control of an unlicensed HMO between 1 April 2019 and 12 November 2020, contrary to section 72(1), Housing Act 2004. Mr Wells' excuse was that he had applied for a licence but had been informed by the local housing authority that he did not yet need one, and that it would inform him when he did. If it had not been satisfied that Mr Wells' excuse was reasonable, the FTT said that it would have made a rent repayment order requiring him to repay rent of a little over £24,000 which he had received from his former tenants of the HMO, who are the appellants.

2. When the appellants asked for permission to appeal the FTT took the view that the proposed appeal raised an important issue about what could amount to a reasonable excuse, on which guidance from this Tribunal would be beneficial.

3. At the hearing of the appeal the former tenants were represented by Mr Cameron Neilson, of the organisation "Justice for Tenants". Mr Wells was represented by Mr Sebastian Reid as he had been before the FTT. I am grateful to them both for their helpful submissions.

The relevant statutory provisions

4. By section 254(3), Housing Act 2004 (the 2004 Act) a self-contained flat is a house in multiple occupation, or "HMO", if it is occupied and used only as living accommodation by persons who pay rent, who share basic amenities but do not form a single household, and for whom the unit they occupy is their only or main residence.

5. Part 2 of the 2004 Act provides for the licensing of HMOs. An HMO which is a self-contained flat is not usually required to be licensed, but by section 56 a local housing authority may designate the whole or part of its district as subject to additional licensing in relation to any description of HMOs specified in the designation. If such a designation is made, Part 2 of the 2004 Act will apply to HMOs of the specified description, which may include self-contained flats and which section 61 will then require to be licensed.

6. By section 72(1) of the 2004 Act a person commits an offence if they have control of or are managing an HMO which is required to be licensed under Part 2 of the Act but is not so licensed. Section 72(5) provides a defence where the person having control of the HMO without a licence had a reasonable excuse for doing so.

7. Section 43 of the Housing and Planning Act 2016 gives the FTT power to make a rent repayment order when it is satisfied, beyond reasonable doubt, that a landlord has committed any of the offences listed in section 40, which include the offence created by section 72 of the 2004 Act of being in control of an unlicensed HMO.

The facts

8. Number 4 Weddell House is a former local authority flat in a purpose-built block in Duckett Street in Stepney. It is a large flat with an open plan kitchen and living room and five separate bedrooms. In September 2000 it was sold on a long lease by the London Borough of Tower Hamlets, and in 2014 the lease was acquired by Mr Wells. By 2022 Mr Wells had a portfolio of 13 letting properties, including the flat.

9. On 23 November 2018 Mr Wells granted a single tenancy of the whole flat to five friends: Ms Bryant, Ms Hughes, Ms Richards, Mr Williams and one other who moved out in February 2020 and was replaced by Mr Marigold. All five appellants then occupied the flat until 22 November 2020 in circumstances which meant that it was an HMO.

10. After the tenants left the flat they applied to the FTT under section 43 of the 2016 Act for a rent repayment order. They claimed £34,490, which was the maximum amount possible for the final year of the tenancy, from 13 November 2019 to 12 December 2020.

11. When a tenancy of the flat was first granted to the appellants in 2018, no licence under Part 2 of the 2004 Act had been required in Tower Hamlets for HMOs which were self-contained flats. But on 31 October 2018 the local housing authority designated the greater part of its area (including Duckett Street) as an area of additional licensing for all HMOs (with one irrelevant exception). The designation was to last for five years and was to come into force on 1 April 2019. From that date the flat was required to be licensed while it was an HMO.

12. In response to the tenants' application for a rent repayment order Mr Wells accepted that because of the additional licensing designation the flat should have been licensed from April 2019 and that it had not been. He nevertheless denied that he had committed the offence under section 72(1) of the 2004 Act and relied on what he said was a reasonable excuse as providing him with a defence.

13. Mr Wells' excuse was that on 31 October 2018 (a few weeks before the original letting to the appellants) he had applied to Tower Hamlets for a licence for the flat under Part 2 of the 2004 Act. It must simply be a coincidence that he made that application on the same day as the local authority signed off its additional licensing scheme. It has not been suggested that Mr Wells was aware of the designation decision and the FTT seems to have accepted his evidence that only the rent repayment application alerted him to its existence.

14. On 15 November 2018 Tower Hamlets acknowledged receipt of the application, but on 27 November Mr Shah, a council employee, sent an email to Mr Wells confirming that he had refunded the fee of £700 which he had paid for the licence. Mr Shah's email did not explain why the fee was being refunded, other than that it was being returned "as requested".

15. Mr Wells gave his own account of why the fee had been returned in two witness statements he made in the FTT proceedings. His evidence, as summarised by the FTT, was:

> "…that Mr Shah had telephoned him approximately one hour before sending the email to explain that Tower Hamlets would be immediately refunding the application fee, as no licence was needed. He also said that Tower Hamlets would be in touch with the respondent [Mr Wells] at a later date to invite him to apply for a different licence. This could not be processed at that time because it had not yet come into effect."

16. Mr Shah was contacted by the tenants' representatives for his comments on Mr Wells' witness statements, but he told them he was unable to assist as he had no recollection of any telephone conversation with Mr Wells. Another employee of the authority later provided an email purporting to give an account of what had happened, but the FTT was unimpressed by that evidence as it appeared simply to endorse the tenants' representative's own assumptions. In the absence of any reliable evidence to contradict Mr Wells' account of his conversation with Mr Shah the FTT accepted it without hesitation.

The FTT proceedings and its decision

17. In his written evidence to the FTT Mr Wells referred at length to a recent decision of this Tribunal (Judge Cooke), *D'Costa v D'Andrea* [2021] UKUT 144 (LC), and asked the FTT to draw parallels with the facts and the outcome of that case.

18. In *D'Costa* it was accepted by the Tribunal that a landlord had a reasonable excuse for being in control of an unlicensed HMO after she was told in September 2017 in an email from an employee of the local housing authority (Tower Hamlets again) that her property did not require a licence, but that she would be told if that situation changed. The authority did not inform the landlord of a change in regulations in October 2018 which meant that, for the first time, the property became subject to mandatory licensing, despite one of its staff having visited the property on several occasions after that change. It was not until July 2019 that the landlord was advised that she now needed a licence. The FTT had not dealt with the reasonable excuse issue, and the first decision on it was made by the Tribunal, which was satisfied on the evidence that the authority had assured the landlord that it would alert her if a licence was required in future, and that that was a sufficient excuse. At paragraph 39 the Tribunal said:

> "It is difficult to understand why a landlord would not have the defence of reasonable excuse to the offence created by section 72(1) of the 2004 Act where he or she has been told by a local authority employee that their property does not need a licence and that they will be told if that situation changes, and I find that Ms D'Costa had that defence."

19. The FTT's procedural directions permitted the tenants to respond in writing to Mr Wells' witness statements, which their representative did. In the response the representative sought to distinguish *D'Costa*, pointing out that there had been continuing contact between the landlord and the local authority's officers in that case, including visits to the property during which the landlord was not advised that a licence had become necessary. There was no such additional engagement between Mr Wells and Tower Hamlets in this case and, it was

suggested that in those circumstances the initial comment over the telephone (if it had occurred) could not amount to a reasonable excuse.

20. The tenants' representations then raised a further argument to counter the reasonable excuse defence. Although it was dressed up in different ways, its clearest expression was in paragraph 8(b) of the representations to the FTT, where it was pointed out that there was no evidence of Mr Wells having taken any step during the period from 13 November 2019 to 12 December 2020 (the period of the rent repayment claim) to inform himself whether the additional licencing scheme had yet commenced, despite having been told by Mr Shah that a new scheme would be coming into force.

21. Both sides were represented at the hearing before the FTT. Mr Reid confirmed that Mr Wells was cross-examined both on his account of his telephone conversation with Mr Shah, and on his omission to follow up that conversation in the period of almost two years during which the tenancy continued. According to Mr Reid that omission had been "front and centre" of the tenants' case as it was presented to the FTT.

22. The FTT dealt with the defence of reasonable excuse at paragraphs 16 to 35 of its decision, first quoting the statutory provisions and directing itself on the burden of proof before recounting the relevant facts and making the crucial finding that it accepted Mr Wells' recollection of his telephone conversation with Mr Shah. It then referred to the facts of *D'Costa* and quoted paragraph 39 of the Tribunal's decision (reproduced in full above) before reaching this conclusion:

> "34. There is nothing in that paragraph to suggest that it was only the cumulative effect of the assurance and subsequent visits to the property by Tower Hamlets (the latter of which did not happen in our case) that gave rise to the defence.
>
> 35. In our judgment, the Respondent has proved that on the balance of probabilities he has a reasonable excuse for having control of an HMO which was required to be licensed but was not."

23. That reasonable excuse provided a complete defence to the underlying offence and disposed of the rent repayment application. The FTT nevertheless dealt fully with the quantum of the rent repayment order it would have made if it had not been satisfied of the defence and concluded that it would have ordered repayment of £24,143.42.

The appeal

24. The single ground on which the FTT granted permission to appeal was the tenants' contention that, despite having accepted Mr Wells' evidence about what he had been told on the telephone by Mr Shah, it was nevertheless wrong to find that he had made out the defence of reasonable excuse.

25. In his succinct submissions on behalf of the tenants Mr Neilson emphasised two points.

26. First, he submitted that the FTT had placed too much weight on the Tribunal's decision in *D'Costa* and had reached its conclusion that Mr Wells had a reasonable excuse for being in control of the unlicensed HMO without any evaluation of the relevant facts. Its decision could only be understood on the basis that it had treated *D'Costa* as establishing a rule, which it did not, and that it arrived at its decision without applying its own judgment to the facts.

27. Secondly, Mr Neilson argued that the FTT had failed to consider for how long Mr Wells' reasonable excuse had lasted. To put it another way, it failed to consider whether Mr Wells' belief that Tower Hamlets would contact him individually when the new licensing requirement came into force remained a reasonable belief throughout the period he was in control of the unlicensed HMO.

28. In his equally well focused submissions on behalf of the respondent, Mr Reid suggested that the appeal was simply a disguised attack on the FTT's acceptance of Mr Wells' evidence that he had been told by the local authority that it would contact him when he needed to obtain a licence. The FTT had refused permission to challenge its primary finding of fact and it was entitled to base its assessment of Mr Wells' conduct on that finding. This Tribunal should not interfere with the FTT's assessment of what amounted to a reasonable excuse unless some specific error in its reasoning could be identified.

29. When I pointed out to Mr Reid that the FTT had made no mention at all in its decision of the tenants' argument that Mr Wells needed to show that he had a reasonable excuse covering the whole of the period of the claim, from 13 November 2019 to 12 November 2020, he responded that it was not necessary for a tribunal to deal in detail with every point which was put to it. The tenants' argument had obviously been considered by the FTT, which published its decision within a few days of a hearing in which the point had been "front and centre" of the tenants' case. The parties and the Tribunal could safely assume that the FTT's decision had been arrived at after carefully considering all the arguments.

Discussion

30. I begin with a preliminary point about the nature of an appeal to this Tribunal against a decision of the FTT on an application for a rent repayment order under Part 2 of the Housing and Planning Act 2016. It is not always appreciated that such an appeal is not restricted to a challenge to a decision on a point of law. Section 53(1) of the 2016 Act provides in quite general terms that "a person aggrieved by a decision" of the FTT made under Part 2 of the Act may appeal to the Upper Tribunal. Section 53(2) then explains that an appeal on a point of law may not be brought under subsection (1) but must be brought instead under section 11 of the Tribunals, Courts and Enforcement Act 2007. Section 53 thus makes it clear that there are two statutory bases on which an appeal may be brought against a decision in a rent repayment order case (with permission in both cases), namely: on a point of law under section 11, 2007 Act; or on any other ground, under section 53(1), 2016 Act.

31. I mention the scope of the right of appeal in response to Mr Reid's submission that the tenants in this case are attempting impermissibly to reverse the FTT's primary finding of fact. I am satisfied that they are doing nothing of the sort, but even if they were, a challenge even to the findings of fact of the FTT it is not beyond the scope of an appeal to this Tribunal

against a rent repayment order decision. Of course, the FTT is the primary fact-finding tribunal and permission will rarely be granted for appeals against its findings of fact; even fewer will succeed, and only then if the Tribunal is satisfied that a finding of fact was unsupported by the evidence or was one which no reasonable tribunal could have reached. In this case the FTT refused permission for the tenants to challenge its finding of fact, and no further application for permission to appeal on that basis was made to this Tribunal. But neither of Mr Neilsen's points involved such a challenge.

32. There was no disagreement between Mr Reid and Mr Neilson about the approach which the Tribunal should take to a challenge to a finding that a landlord had a reasonable excuse for being in control of an unlicensed HMO. Such a decision is not simply, or even mainly, a finding of fact; it involves what is sometimes called an "evaluative" judgment, a "value-judgment" or a "multi-factorial assessment". The proper approach to an appeal against such a decision is not in doubt.

33. In *Assicurazioni Generali SpA v Arab Insurance Group* [2003] 1 WLR 577, Clarke LJ pointed out that the approach of an appellate court to the findings of a trial judge will depend on the nature of the issues the judge had to determine. A distinction can be drawn between challenges to conclusions of primary fact or inference from those facts and an evaluation of the facts. At paragraph 16, Clarke LJ said this:

> "16. Some conclusions of fact are, however, not conclusions of primary fact of the kind to which I have just referred. They involve an assessment of a number of different factors which have to be weighed against each other. This is sometimes called an evaluation of the facts and is often a matter of degree upon which different judges can legitimately differ. Such cases may be closely analogous to the exercise of a discretion and, in my opinion, appellate courts should approach them in a similar way."

34. More recently, in *Prescott v Potamianos* [2019] EWCA Civ 932, a case in which the issue was whether the affairs of a company were being conducted in a way which was "unfairly prejudicial" to one of its shareholders, the Court of Appeal reviewed a large body of recent caselaw concerning the approach of an appellate court to a challenge to such an evaluative decision. In the light of those authorities the Court provided the following concise summary:

> '76. So, on a challenge to an evaluative decision of a first instance judge, the appeal court does not carry out a balancing task afresh but must ask whether the decision of the judge was wrong by reason of some identifiable flaw in the judge's treatment of the question to be decided, "such as a gap in logic, a lack of consistency, or a failure to take account of some material factor, which undermines the cogency of the conclusion".'

35. A decision that a landlord had a reasonable excuse for being in control of an unlicensed HMO is the sort of evaluative decision to which this approach applies. On an appeal it is not for me to decide whether I think the landlord's excuse was a reasonable one, but rather to consider whether a flaw has been identified in the FTT's assessment.

36. The first flaw suggested by Mr Neilsen is that the FTT failed to apply its own mind to the facts of this case, and instead simply transposed the conclusion of this Tribunal in *D'Costa* without carrying out a proper assessment.

37. If that was the route by which the FTT reached its decision then I would agree with Mr Neilsen that its approach would have been flawed. No two cases are identical on their facts, and what amounts to a reasonable excuse for one landlord may not provide such a defence for another. *D'Costa* concerned a single property landlord who let out her former home to an intermediate which the FTT said should have informed her of the need for a licence; she was also in regular contact with the local housing authority which offered to inform her if a licence was required but did not do so despite being aware of the number of tenants in occupation. Those are not the facts of this case. What was required in this case was an assessment of the excuse given by Mr Wells.

38. I am nevertheless satisfied that the FTT did not make the first mistake suggested by Mr Neilsen. It noted the differences between the facts of *D'Costa* and the facts of this case in paragraph 34 of its decision and its conclusion that Mr Wells had a reasonable excuse was made in the light of those differences. It is true that there is little in the FTT's decision to explain its reasoning and its conclusion is stated rather than explained. But it is apparent that the FTT accepted that the offer it found to have been made by Mr Shah, to be in touch with Mr Wells at a later date to invite him to apply for a different licence, provided Mr Wells with a reasonable excuse for being in control of the unlicensed HMO.

39. Mr Neilsen's second point is more powerful. It gains strength from Mr Reid's confirmation that "front and centre" of the tenants' case had been the proposition that Mr Wells had taken no steps between his conversation with Mr Shah on 27 November 2018 and the termination of the tenancy on 12 December 2020 to inform himself whether the additional licencing scheme had yet commenced, despite having been informed by Mr Shah that a new scheme would be coming into force.

40. The offence of having control of or managing an unlicensed HMO contrary to section 72(1) of the 2004 Act is a continuing offence which is committed by the person having control or managing on each day the relevant HMO remains unlicensed. To avoid liability for the offence the person concerned must therefore establish the defence of reasonable excuse for the whole of the period during which it is alleged to have been committed.

41. The tenants' case on this issue was a simple one. Mr Wells evidence was that he had been told by Mr Shah in November 2018 that he did not need a licence, but that Mr Shah would be in touch at a later date to invite him "to apply for a different licence …. [which] could not be processed at that time because it had not yet come into effect." At the very least it was implicit in that conversation that the HMO would require a licence at a future time. The more time elapsed after the conversation without Mr Shah contacting Mr Wells again, the less reasonable it became for Mr Wells to rely on Mr Shah's rather surprising and unrecorded offer.

42. The period to which the application for rent repayment related ran from the November 2019 rent day until the tenants vacated the flat in December 2020. The question for the FTT was

whether Mr Shah's statement in November 2018 continued to provide a reasonable excuse for the whole of that period. According to Mr Reid, Mr Wells was cross examined about that question, but there is nothing in the FTT's decision indicating what it made of his answers or what they were. Mr Reid is obviously right that a tribunal is not required to make specific findings about every argument which is put to it, nor is it required to give an account of the whole of the evidence. But it is required to deal with the main points on which each party relies so that they can understand why they won or lost on that issue.

43. Mr Reid's submission was that because the issue was "front and centre" of the tenants' case, and because the FTT found in favour of Mr Wells, it must be taken to have decided that Mr Shah's offer of assistance continued to provide a reasonable excuse for more than two years, including for the whole of the period from April 2019 when the additional licensing designation took effect until December 2020 when the tenancy came to an end. I may have been prepared to accept that submission if there had been any indication in the FTT's decision that it had taken account of the passage of time or made any assessment of its significance. But nothing of that sort can be found in the decision. There is no reference to the points taken in the tenants' statement of case or made orally during the hearing, nor to the cross examination of Mr Wells. Instead, the FTT focussed on finding the primary facts before discussing *D'Costa*, which has nothing to say on this point. The entirety of its evaluation of the facts is found in paragraph 35 which, as I have already said, takes the form of a conclusion rather than an explanation.

44. If the FTT did not consider one of the main planks of the tenants' case, that would amount to an "identifiable flaw" in its reasoning; if it did consider it, but did not explain what it made of it, that would amount to a failure to give adequate reasons for its decision. It did one or the other and on that basis the appeal must be allowed and the FTT's decision set aside.

Further guidance

45. When it gave permission to appeal the FTT suggested that guidance from this Tribunal on what amounted to a reasonable excuse for the purpose of section 72(5) would be welcome because it was an important issue in a relatively new jurisdiction.

46. The question whether a person has a reasonable excuse for conduct which would otherwise amount to a criminal or regulatory offence arises in many different contexts and, thankfully, there is no shortage of guidance on how a court or tribunal should approach it.

47. A useful example is the decision of the Upper Tribunal, Tax and Chancery Chamber, in *Perrin v HMRC* [2018] UKUT 156 (TCC), which was drawn to my attention by Mr Neilsen. That was a taxpayer's appeal against daily penalties for late filing of her self-assessment tax return. She said she had a reasonable excuse because she genuinely believed that she had filed her return online but had inadvertently omitted to complete the final stage of submission; when her mistake was pointed out to her she submitted a new return but this time for the wrong year. The FTT held that she had had a reasonable excuse for her initial failure to file but that this had come to an end when HMRC informed her that she had not completed the process. The taxpayer's case on appeal was that a genuine and honestly held belief that she had done what was required should afford a reasonable excuse, whether or

not it was objectively reasonable for her to have held such a belief. The Tribunal held that, to be reasonable, an excuse must be *objectively* reasonable and that it was not enough that it be based on a genuinely or honestly held belief. At paragraph 71, it emphasised, however, that in deciding whether an excuse was objectively reasonable it was necessary to have regard to all relevant circumstances, including those of the individual taxpayer. As it explained, "because the issue is whether the particular taxpayer has a reasonable excuse, the experience, knowledge and other attributes of the particular taxpayer should be taken into account, as well as the situation in which that taxpayer was at the relevant time or times." Having then found that the FTT had not erred in principle in making its assessment, the Tribunal declined to interfere with it and dismissed the appeal.

48. The Tribunal in *Perrin* concluded its decision with some helpful guidance to the FTT, much of which is equally applicable in the sphere of property management and licensing. At paragraph 81 it said this:

> "81. When considering a "reasonable excuse" defence, therefore, in our view the FTT can usefully approach matters in the following way:
>
> (1) First, establish what facts the taxpayer asserts give rise to a reasonable excuse (this may include the belief, acts or omissions of the taxpayer or any other person, the taxpayer's own experience or relevant attributes, the situation of the taxpayer at any relevant time and any other relevant external facts).
>
> (2) Second, decide which of those facts are proven.
>
> (3) Third, decide whether, viewed objectively, those proven facts do indeed amount to an objectively reasonable excuse for the default and the time when that objectively reasonable excuse ceased. In doing so, it should take into account the experience and other relevant attributes of the taxpayer and the situation in which the taxpayer found himself at the relevant time or times. It might assist the FTT, in this context, to ask itself the question "was what the taxpayer did (or omitted to do or believed) objectively reasonable for this taxpayer in those circumstances?"

(I have omitted a fourth step because it is referable to a specific provision of the Finance Act 2009 and has no equivalent in the 2004 Act).

49. The Tribunal then dealt with a particular point which is regularly encountered in HMO licensing cases and which therefore merits attention:

> "82. One situation that can sometimes cause difficulties is when the taxpayer's asserted reasonable excuse is purely that he/she did not know of the particular requirement that has been shown to have been breached. It is a much-cited aphorism that "ignorance of the law is no excuse", and on occasion this has been given as a reason why the defence of reasonable excuse cannot be available in such circumstances. We see no basis for this argument. Some requirements of the law are well-known, simple and straightforward but others are much less so.

> It will be a matter of judgment for the FTT in each case whether it was objectively reasonable for the particular taxpayer, in the circumstances of the case, to have been ignorant of the requirement in question, and for how long."

Disposal

50. For these reasons I allow the tenants' appeal. Both advocates agreed that, in that event it would be necessary to remit the rent repayment application to the FTT for further consideration. I agree. I have not heard the evidence, especially that of Mr Wells, and it is not possible for me to substitute a decision of my own.

51. I therefore remit the application to the FTT for further consideration. There is no reason why that consideration should not be undertaken by the same panel, nor should it be necessary for the FTT to revisit its findings of primary fact about what was said to Mr Wells by Mr Shah, but it will be for it to decide whether to admit additional evidence. When considering for how long any reasonable excuse persisted, it may find the systematic approach described in *Perrin* provides a helpful framework.

Martin Rodger KC,

Deputy Chamber President

3 February 2023

Right of appeal

Any party has a right of appeal to the Court of Appeal on any point of law arising from this decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal's decision on costs is sent to the parties). An application for permission to appeal must identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.