

Grounds of appeal must be concise and precise as per section 6(1) of the PBAT Act
The Appellant must prove that his Appeal was lodged within 21 days as per section 3 (2)(a) of the PBAT Act

The Appellant has lodged two notices of appeal challenging the Respondent's decision not to appoint him as...

The Respondent has raised objections in law to the following effect:

- (a) The present appeal be set aside in as much as the appeal has been lodged outside the prescribed delay of 21 days, in breach of section 3(2) of the Public Bodies Appeal Tribunal Act;
- (b) The present appeal be set aside as the grounds of appeal cannot be entertained by the present Tribunal as it does not amount to an appeal against any decision of the Respondent;
- (c) The present appeal be set aside as Appellant has failed to state precisely and concisely the grounds of appeal in breach of section 6(1) of the Public Bodies Appeal Tribunal Act.

The Respondent called as witness the immediate superior of Appellant to certify when the Appellant received his circular notice of appointment. The witness said that he had sent a copy to the Appellant on ... by ordinary mail. Although the letter was not registered, the witness was adamant that the Appellant had received same as, during a meeting with the Appellant during mid May, the Appellant had a copy of that circular letter and expressed his surprise that others were appointed as per the content of the letter.

The Appellant maintained all along that he did not receive the letter. He conceded that he met with his superior during the latter part of the month mentioned by the witness and that he may have received the letter of notification around the He lodged an appeal before the Tribunal on the ...and a second one on the... The first notice of appeal was received by the Tribunal on the ...and the second notice on ...

A perusal of the two notices of appeal shows that there is a confusion as to the dates on which the Appellant was notified of the Respondent's decision. In the first notice of appeal, the Appellant gave the date of the Respondent's decision as the ... and the date of notification as the ... i.e. the notification took place before the decision. In the second notice, the date of notification is not inserted in the relevant place. Before the Tribunal, the Appellant stated that he was notified around the ...Counsel for the Appellant suggested in his submissions that the first notice of appeal should be taken into account and that since the notice was lodged within the 21 days delay to lodge an appeal before the Tribunal. .

While the Tribunal is reluctant to indulge in guess work as to when exactly was the Appellant notified of the decision of the Public Service Commission to appoint the..., there is an additional reason why the Tribunal declines to consider the appeal based on the first notice of appeal. As rightly stated by Counsel for the Respondent, the grounds of appeal in the first notice of appeal which read as follows:

“wrong attitude of... (Referring to some employees responsible for inspection)”,

fall short of section 6 (1) of the PBAT Act which specifically states that:

6. Procedure and powers of Tribunal

(1) *Subject to subsection (5), an appeal made under section 3 –*

(a) *shall set out concisely and precisely the grounds on which the appellant seeks to have the decision of a public body quashed or dealt with otherwise;*

In this case, it is clear that the grounds of appeal are not set out concisely and precisely and it is not clear what decision of the Public Service Commission is being challenged.

As far as the second notice of appeal is concerned, the Tribunal finds that even if the version of the Appellant is to be believed to the effect that he received the circular letter around the..., the notice of appeal is beyond the 21 days limit as provided for in Section 3 (2) (a) of the PBAT Act .

<<(2) *An appeal shall be made –*

(a) *within 21 days of the notification to the officer of the decision referred to in subsection (1), or within 21 days of such public notification of the decision as may have been made, whichever is the earlier; and*

(b).....>>

Based on the Appellant's own contention that he received the letter of notification around the ... and based on the fact the second undated ground of appeal was received at the Registry of the Tribunal on the ..., the Tribunal finds that the Appellant has failed to establish that the appeal was lodged within the 21 days delay prescribed by Section 3 (2) (a) of the Act.

In the result, the Tribunal upholds Respondent's objection and rules that the appeal cannot be entertained. It is therefore set aside.