



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **LON/OOAY/HMA/2015/0006**

**Property** : **15 Englewood Road, South  
Clapham, SW12 9PA**

**Applicant** : **Katie Zoe Evans**

**Representative** :

**Respondent** : **Mr T Uthayakanthan**

**Representative** : **In person**

**Type of Application** : **Application for a Rent repayment  
Order**

**Tribunal Members** : **Tribunal Judge Dutton  
Mr H Geddes RIBA MRTPI**

**Date and venue of  
determination** : **5<sup>th</sup> August 2015 at 10 Alfred Place,  
London WC1E 7LR**

**Date of Decision** : **5<sup>th</sup> August 2015**

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**DECISION**

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## DECISION

**The Tribunal determines that the Respondent has no liability to the Applicant for the repayment of periodical payments (rent) in respect of the letting of 15 Englewood Road, South Clapham SW12 9PA (the Property) for the reasons set out below.**

### **BACKGROUND**

1. On 27<sup>th</sup> February 2015 the Respondent was convicted at the Camberwell Green Magistrates Court of an offence, amongst others, contrary to section 72(1) and (6) of the Housing Act 2004 (the Act) and was fined £5,500 plus costs of £800 and a victim surcharge of £120.
2. By an application dated 21<sup>st</sup> April 2015 the Applicant sought a Rent Repayment Order (RRP) against the Respondent, her landlord of the Property and in support lodged copies of her bank statements for the period February 2013 to 21<sup>st</sup> April 2014
3. In support of his position the Respondent filed a bundle under cover of a letter dated 20<sup>th</sup> July 2015, received at the Tribunal offices on 22<sup>nd</sup> July 2015.
4. The Applicant did not file any further papers in this matter.

### **THE LAW**

5. The relevant law is set out below

### **FINDINGS**

6. The Act provides that an occupier can seek to recover rent paid under s73(5) of the Act. S74(8) limits the period of recovery to not more than 12 months before the date of the application to the Tribunal. Further the provisions of s73(8) must be satisfied, which is the case here
7. The Respondent does not dispute that an offence has been committed but advances certain matters to explain the position which we have noted. One point made is that he says the Applicant did not vacate the Property until, at the earliest, September 2014 as evidenced by an email from the Applicant to the Respondent's architect. However, it is said that the Applicant did not pay rent after 23<sup>rd</sup> April 2014, which is consistent with the bank account statements supplied.
8. The provisions of s74(5) mean that we can not go back beyond 22<sup>nd</sup> April 2014. There is no evidence before us of any rent being paid after that time, the last payment on the bank statements being shown as 10<sup>th</sup> April 2014, which means that we cannot award any repayment of rent (periodical payments) as the application was made more than 12 months after the last payment of rent.

Tribunal Judge  
Andrew Dutton

5<sup>th</sup> August 2015

## **The Relevant Law**

s72 Offences in relation to licensing of HMOs

(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

s73 Other consequences of operating unlicensed HMOs: rent repayment orders

(5) If—

(a) an application in respect of an HMO is made to a residential property tribunal by the local housing authority or an occupier of a part of the HMO, and

(b) the tribunal is satisfied as to the matters mentioned in subsection (6) or (8),

the tribunal may make an order (a “rent repayment order”) requiring the appropriate person to pay to the applicant such amount in respect of the housing benefit paid as mentioned in subsection (6)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (8)(b), as is specified in the order (see section 74(2) to (8)).

(8) If the application is made by an occupier of a part of the HMO, the tribunal must be satisfied as to the following matters—

(a) that the appropriate person has been convicted of an offence under section 72(1) in relation to the HMO, or has been required by a rent repayment order to make a payment in respect of housing benefit paid in connection with occupation of a part or parts of the HMO,

(b) that the occupier paid, to a person having control of or managing the HMO, periodical payments in respect of occupation of part of the HMO during any period during which it appears to the tribunal that such an offence was being committed in relation to the HMO, and

(c) that the application is made within the period of 12 months beginning with—

(i) the date of the conviction or order, or

(ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.

S74 (8) A rent repayment order may not require the payment of any amount which—

(a) (where the application is made by a local housing authority) is in respect of any time falling outside the period of 12 months mentioned in section 73(6)(a); or

(b) (where the application is made by an occupier) is in respect of any time falling outside the period of 12 months ending with the date of the occupier’s application under section 73(5);

and the period to be taken into account under subsection (6)(a) above is restricted accordingly.