



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

Case reference : **CAM/38UC/HMF/2019/0017**

Property : **67 Harpes Road, Oxford, OX2 7QJ**

Applicants : **1.Tanya Prentice
2.Matthew Noon
3. Alastair Corbin
4. Jasmine Cairns**

Representative : **Justice for Tenants**

Respondent : **Melanie Towns**

Representative : **Charles Snelling, Counsel**

Type of application : **Application for a rent repayment order
by tenants**
Sections 40,41,43 & 44 of the Housing and
Planning Act 2004 (“2004 Act”)

Tribunal : **Judge J. Oxlade**

Decision : **7th October 2020**

DECISION

For the following reasons I made the following Orders:

- (1) The Respondent shall repay rent (an RRO) for the period of 1st May 2018 to 30th April 2019, in the sum of (i) £2410 in favour of Matthew Noon, (ii) £2410 in favour of Jasmine Noon (nee Cairns), (iii) £2382.50 in favour of Alistair Corbin and (iv) £ 2382.50 in favour of Tanya Prentice,
- (2) The Respondent shall pay the sum of £300 to the Applicants by way of reimbursement of the application and hearing fees, to be apportioned as agreed between the Applicants.

REASONS

Application

1. Pursuant to section 40 of the Housing and Planning Act 2016 (“the 2016 Act”), the Applicants made an application for an order for repayment of rent (“a RRO”) in the sum of £19, 170, paid by them to the Respondent, during the period of an offence – 1st May 2018 to 30th April 2019 – which offence was failing to licence a home of multiple occupation (“HMO”).
2. They do so because during that period they were the occupants of 67 Harpes, Oxford (“the premises”), owned by the Respondent, and which should have been licenced as an HMO under section 72(1) of the Housing Act 2004, it being (i) a three storey house, (ii) occupied by four persons who did not form a single household, and was (iii) located within an area which fell within phase 1 of a selective licensing area designated by Oxford City Council on 25th January 2016, but it was not so licensed. No application had been made by the Respondent for such a licence.
3. The Applicants vacated the premises on 24th May 2019, and on 19th December 2019 made the application – so, within 12 months of the offence occurring.
4. It is this application which first came before me for hearing on 2nd June 2020, at which hearing the Applicants were represented, but the Respondent was not. The offence was not disputed, and so the hearing focused on quantum.
5. I made a decision on 12th June, which was immediately published and sent to the parties.
6. However, in the intervening period between the hearing and publication of my decision, on 9th June 2020 the Upper Tribunal (Lands Chamber) made a decision in Vadamalayan v Stewart [2020] UKUT 0183 (“Vadamalayan”) on an appeal against the quantum of a RRO, the focus of which was the proper approach to assessing quantum.
7. In light of that decision - which conflicted with the approach that I had taken to assessing quantum, having applied the guidance given by the Upper Tribunal in RRO applications under the Housing Act 2004 in Parker v Waller [2012] UKUT 301 (“Parker”) - an application for a review was made by the Applicant, pursuant to regulation 55 of the 2013 Regulations.
8. On 28th July 2020, having found grounds to conclude that an error of law may have been made and that an appeal could succeed, I granted the application and directed that the appeal be listed for a review hearing and hearing on quantum of the RRO.
9. I also made directions for the parties to make submissions and file any further evidence relied on to influence quantum. Pursuant to these directions the Applicants re-filed the bundle of documents filed for the June hearing, together