



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

Case reference : **LON/00BD/HMC/2020/0002
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HMCTS code : **P: CVPREMOTE**

Property : **Flats 2 and 3, 29 South Road,
Twickenham, Middlesex, TW2 5NU**

Applicant : **London Borough of Richmond up-
on Thames**

Representative : **Mr Nicholas Hancock, Environ-
mental Health Practitioner**

Respondent : **Mr P Singh Sehajpal**

Representative : **Did not attend and was not
represented**

Tribunal members : **Tribunal Judge I Mohabir
Mr T Sennett MA FCIEH**

Date of hearing : **31 January 2022**

Date of decision : **31 January 2022**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing, which has been consented to by the parties. The form of remote hearing was V: SKYPEREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing.

Introduction

1. These are two applications made by the Applicant under section 41 of the Housing and Planning Act 2016 (“the Act”) for a rent repayment order against the Respondent in respect of Flats 2 and 3, 29 South Road, Twickenham, Middlesex, TW2 5NU (“the properties”).
2. The property is described as a converted building comprising of 4 self contained flats. The properties were let by the Respondent to two separate tenants whose rent was met all or in part by payments of Housing Benefit. The Respondent is the registered proprietor of the property and was at all material times the landlord of the tenants.
3. Following inspections of the properties by Mr Hancock, an Environmental Health Practitioner employed by the Applicant, he served two improvement notices on the Respondent both dated 29 May 2019. Schedule 2 in the notices set out the remedial works to be carried out by the Respondent.
4. On 19 August 2019, Mr Hancock carried out a compliance inspection and found that none of the remedial works set out in the improvement notices had been carried out by the Respondent.
5. On 9 March 2020 the Applicant’s legal services issued a summons to the Respondent for the alleged offence of non-compliance with two improvement notices pursuant to section 30 of the Act. The prosecution was scheduled for a first hearing for 7 April 2020 at 10am but this did not take place due to the Covid-19 pandemic.
6. Due to the pending court case, and in the alternative, the Respondent also made these applications for a rent repayment order by reason of the Respondent’s non-compliance with the improvement notices.
7. On 10 December 2020, the Tribunal issued Directions. The Respondent did not comply with these directions and as a consequence, was debarred from defending the proceedings pursuant to an order dated 25 March 2021.
8. The Respondent did attend in person the earlier hearing on 6 April 2021. Until the point in time, the Respondent had failed to engage in the proceedings at all. This was adjourned to allow the Respondent to seek legal assistance he said that he proposed to obtain and to make an application to have the debarring order set aside. In addition, the Tribunal gave directions for the Applicant to notify the Tribunal of the outcome of the criminal prosecution against the Respondent and to file and serve additional evidence regarding the actual amounts of Housing Benefit paid to the Respondent.

9. By a letter dated 12 May 2021, the Applicant confirmed that the total Housing Benefit paid to the Respondent for Flats 2 and 3 were £2,806 and £4,656.57 for the period from 25 August 2019 to 5 November 2019 and 17 December 2019 respectively.
10. On 25 June 2021, the Respondent was found guilty at Wimbledon Magistrates Court of failing to comply with the two improvement notices and received a comprised of two fines of £25,000 plus costs and victim surcharges.

Relevant Law

Making of rent repayment order

11. Section 43 of the Act provides:

“(1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted).

(2) A rent repayment order under this section may be made only on an application under section 41.

(3) The amount of a rent repayment order under this section is to be determined in accordance with—

(a) section 44 (where the application is made by a tenant);

(b) section 45 (where the application is made by a local housing authority);

(c) section 46 (in certain cases where the landlord has been convicted etc).

12. Section 45 of the Act provides:

Amount of order: local housing authorities

(1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a local housing authority, the amount is to be determined in accordance with this section.

(2) The amount must relate to universal credit paid during the period mentioned in the table (this provides that for an offence of failing to comply with an improvement notice, the amount must relate to universal credit (which includes housing benefit) paid in respect of a period, not exceeding 12 months, during which the landlord was committing the offence).

(3) The amount that the landlord may be required to repay in respect of a period must not exceed the amount of universal credit (housing benefit) that the landlord received (directly or indirectly) in respect of rent under the tenancy

(4) ...

13. Section 46 of the Act provides:
- Amount of order following conviction
- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 and both of the following conditions are met, the amount is to be the maximum that the tribunal has power to order in accordance with section 44 or 45 (but disregarding subsection (4) of those sections).
- (2) Condition 1 is that the order—
- (a) is made against a landlord who has been convicted of the offence, or
- (b) is made against a landlord who has received a financial penalty in respect of the offence and is made at a time when there is no prospect of appeal against that penalty.
- (3) Condition 2 is that the order is made—
- (a) ...
- (b) in favour of a local housing authority.
- (4) ...
- (5) Nothing in this section requires the payment of any amount that, by reason of exceptional circumstances, the tribunal considers it would be unreasonable to require the landlord to pay.

Hearing

14. The remote video hearing in this case took place on 31 January 2022. The Applicant was represented by Mr Hancock. The Respondent did not appear and were not represented.
15. Following the hearing on 6 April, the Respondent has again not engaged or participated at all with the Tribunal or the Applicant. Therefore, the case proceeded on the basis of the Applicant's unchallenged evidence.
16. Mr Hancock told the Tribunal that the Respondent had not appealed his conviction in the Magistrates Court and that the Applicant was seeking a rent repayment order for the sums of £2,806 and £4,656.57 respectively for each of the flats. For the avoidance of doubt, the Tribunal found that these amounts were paid to the Respondent as universal credit (housing benefit) during the 12-month period when he failed to comply with the improvement notices.
17. By reason of the Respondent's conviction, the Tribunal was satisfied that the Applicant was entitled to an order under section 45(2) of the Act.
18. As to the quantum of the order, the Tribunal was also satisfied that the two conditions in section 46(2)(a) and (3)(b) were satisfied and, therefore, under section 46(1), the Tribunal was obliged to make an order against the Respondent for the maximum rent repayment order for the sums of £2,806 and £4,656.57 claimed by the Applicant for Flats 2 and 3 respectively. There were no exceptional circumstances within the meaning of section 46(5) that required the Tribunal to reduce the amounts. The Tribunal orders that these amounts are

paid by the Respondent to the Applicant within 14 days of this decision being issued to the parties.

19. In addition, the Respondent is ordered to reimburse the Applicant the fees of £600 paid to the Tribunal to have the applications issued and heard. This sum is also to be paid by the Respondent within 14 days of this decision being issued to the parties.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).