



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

**Case Reference** : **LON/00BH/HMB/2021/0016**

**Property** : **178 Langthorne Road, London E11 4HS**

**Applicant** : **Flaviano Sogus and Ralitsa Nikolova**

**Representative** : **In Person**

**Respondent** : **Jennifer Bridge**

**Representative** : **In Person**

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

**Tribunal Members** : **Judge Shepherd**  
: **Ms J Mann MCIEH**

**Date of Determination** : **7<sup>th</sup> July 2022**

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**Determination**

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1. This is an application for a Rent Repayment Order. The Applicants are Flaviano Sogus and Ralitsa Nicolova (“The applicants”). The occupied premises at 178 Langthorn Rd, London E114HS (“The premises”). Their landlord was Jennifer Bridge. They were given a written tenancy agreement. The First Applicant Flaviano Sogus paid a monthly rent of £620 which was reduced to £570 from November 2020. The Second Applicant Ralitsa Nikolova paid a monthly rent of £560 which was reduced to £520 in November 2020. They shared the premises

with at least one and sometimes two other persons. The kitchen, bathroom, living room and garden were shared. The people who have shared the premises were all separate households.

2. Both Applicants attached to their witness statements evidence of rent payments from their bank accounts. It was common ground that there were no rent arrears.
3. The basis of the application for a rent repayment order is that the Respondent did not have a licence for the premises which was an HMO. In addition, the Applicants claim that the Respondent harassed them by telling them to move out as soon as possible and threatening to make their stay unpleasant if they did not move out as soon as possible. They say the Respondent's partner was aggressive and physically intimidating. The Applicants asked for a valid notice to leave the premises but the Respondent did not supply it instead they received a letter stating that she wanted to sell the house and giving her reasons. Pausing here, any notice would have been invalid in any event because the property was unlicensed. The Applicants say that they were constantly accused of not looking for alternative accommodation and told to find another place. This was during lockdown which made it doubly difficult for the Applicants they say. In addition, the Applicants say that the Respondent gave an estate agent keys for their rooms. They also say that the Respondent tried to break into one of their rooms without notice or tenants permission.
4. In the bundle of documents is a letter from the Respondent to the Applicants dated 16<sup>th</sup> January 2021 saying that she gave them notice for several reasons firstly, economic reasons - it was no longer worth letting the property out, secondly the house had lost capital value, thirdly the journey for her to the house was difficult, fourthly she complained that the Applicants had not accepted the third tenant that she had proposed a man called Emerson and they have not made him welcome. In the letter she said that she expected them to start looking for alternative accommodation as soon as possible.

5. The Tribunal were given recordings of conversations between the Respondent and her partner and the Applicants from 7 February 2021. There was also a transcript of these conversations. It is fair to say that the conversations were heated. It's clear that the Respondent and her partner wanted the Applicants to leave and told them so in clear language. For their part the Applicants said that they would move out but could not move out immediately as they needed to find alternative accommodation. The response to the Applicants from the Respondent and her partner was at times patronizing, at times bullying and verged on threatening conduct. Instead of seeking to find a legal means of obtaining possession of the premises it was clear that the Respondent and her partner were seeking to lever the Applicants out of the property at a difficult time during the covert pandemic.
  
6. In the written response the Respondent admits that she did not have a licence for the premises but states that she has no prior housing convictions. She said that she knew she needed a licence but just carried on as before out of laziness. She says that the house had a smoke detector, carbon monoxide monitor, fire extinguishers, fire blankets, a new consumer unit with RCD safety trips, electrical installation certificate and an annual British Gas boiler landlords gas safety inspection and certificate. She said that she did not take deposits from the applicants but took two months rent in advance. She paid all the bills at the house - council tax, gas, electricity, water, internet and TV licence. She also paid out insurance and the gas boiler insurance. Unsurprisingly she denies charges of harassment and accuses the Applicants of being hostile, particularly towards the proposed new tenant Emerson. She says that she was in a difficult position and had to decide whether to sell or not. She says she has been a considerate landlady and cites the example of providing the Second Applicant with a new bookshelf. She also says that she reduced the rent for the applicants in November and December 2020. She says that she allowed Emerson's ex-wife to move in with him. She says this prompted the Applicants to be difficult with Emerson, leaving nasty notes about cleaning and recycling. She wrote to the Applicants telling them that she was selling the house and giving the reasons

for this. She criticises the applicants for asking for more time to move as they were entitled to 6 months notice during the covid pandemic. She says that she went to the house with the intention of offering £500 each to leave. This was the discussion recorded and played to the tribunal. The First Applicant left the premises on 14<sup>th</sup> February 2021 and the second on 28<sup>th</sup> February 2021.

7. The Respondent gave details of her financial circumstances. She provided evidence of her savings account which had £127.71 in it. She also provided evidence of the utility bills that she has had to pay. The respondent also said that she worked as a gardener and owned another property I Boston Road that was The respondent also advised that was subdivided into flats.
  
8. Both parties attended the hearing in person. The Applicants said that on 17 January 2021 the Respondent came to the premises and told them that she would make their stay unpleasant if they did not leave. There were several further visits to the premises by the Respondent. At one such meeting on 27 January the Respondent asked them when they were leaving. There were regular visits thereafter. The applicant said that the relationship with the landlord was normal before this.
  
9. The Applicants said that the period of the Rent Repayment Order that they were seeking was 1 March 2020 until 28 February 2021 (The relevant period). They confirmed that they did not know each other before they moved into the premises. They said that everything was going well but this changed on 17 January 2021 when the Respondent's partner behaved aggressively and walked towards the first Applicant. They also said that there had been a problem with a leak at the premises from the bathroom into the kitchen which had been painted over repeatedly. They said that they'd had a minor disagreement with Emerson about not cleaning the cooker after use and had left a note saying 'clean after use' because they were in and out a lot of the time and not easily able to speak with Emerson. They also complained about the heating being left on overnight which made it difficult to sleep and lack of cleaning after use in

the bathroom. They said that they were not happy for the Respondent to view the premises when they were not there because of personal possessions in their room. On 27 January 2021 the Respondent came into the house to try a set of keys. She tried all of the doors but couldn't open them. They said that the respondent had visited the house every couple of days in January and February 2021 whereas from 2018 to 2020 the respondent had only visited once every couple of months.

10. The Respondent said that she had tried the keys but couldn't open the rooms. She was trying to sell the premises. She said she'd reduced the rents for the Applicants between November 2020 and December 2020 in line with other rents. She felt this was the morally right thing to do. The council had visited in January 2021 following a call from the Applicants. A letter from Gavin Brown of the local authority on 20 February 2021 confirmed that the premises were not licensed. The Respondent said her and Hamid had gone to the house after Emerson had complained about feeling uncomfortable in the kitchen. In early January the Respondent decided to sell the house and instructed estate agents. She wanted to fix the kitchen ceiling and the Applicants would not let her in. She said that she had twenty years of keys kept for the property and so when she went to the premises and tried the lock she was trying to identify which key was which to give a key to the estate agent. She accepted that she had been to the premises on several occasions and said she could enter the shared parts of the property without giving notice to the tenants because the tenancy agreement allowed it. The respondent also had a store room and a loft space at the property in which she stored her personal possessions and she said she visited to take things out of storage without giving notice to the tenants. The respondent said that in the end the estate agent arranged eight viewings in 1 hour on Sat 30 January, on the following Monday 2 February five offers were made and she accepted a lower cash offer of £603 000 for a quick sale with completion 6 weeks later because she was in financial difficulties with her other property in Boston Road not selling. The respondent confirmed that at the time of the voice recordings on 7 February the property had already been sold subject to exchange of contracts. The respondent advised that after paying a

mortgage, bridging loan and capital gains tax she was left with about £60 000 from the sale of the property.

## **The law**

11. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) order 2018 confirm that the property is an HMO if the following criteria apply-

- it is occupied by five or more persons;
  
- it is occupied by persons living in two or more separate households;
  
- it meets the standard test under section 254 (2) of the Act

12. In addition s.56 of the Housing Act 2004 enables a local authority to designate areas subject to additional licensing if there are a significant proportion of HMOs being managed ineffectively in the area in question.

13. .Under section 41(1) of the Housing and Planning Act 2016 a tenant may apply to the First Tier Tribunal for a rent repayment order against a person who it is alleged has committed an offence under various Acts . Section 43 of the Act permits the FTT to grant a rent repayment order if satisfied beyond reasonable doubt that a landlord has committed an offence under section 72 one of the Housing Act 2004 by failing to obtain an HMO licence. Also a Rent Repayment Order can be granted if there has been an offence under s. 1(2) (3) and (3A) of the Protection from Eviction Act 1977.

14. Subsections (3) and (3A) state the following:

*(3) If any person with intent to cause the residential occupier of any premises—*

*(a) to give up the occupation of the premises or any part thereof; or*

*(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;*

*does acts [likely]<sup>1</sup> to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.*

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*(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—*

*(a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or*

*(b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,*

*and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises. Section 44 of the Act permits the FTT to grant a Rent Repayment Order in respect of the rent paid by the tenant for a period not exceeding 12 months.*

## Determination

15. It is clear that the premises were not licenced and should have been licensed for the relevant period under the selective licensing scheme in place in Waltham Forest accordingly the Respondent is prima facie liable for a Rent Repayment Order. In addition, however the Tribunal considers that the evidence shows that the Respondent and her partner were harassing the Applicants with the clear intention of getting them to leave the premises so that they did not have to commence legal possession proceedings. This conduct was clear from the recording that the Tribunal listened to and indeed from the transcripts of conversations that took place. The Applicants and in particular the First Applicant was accused by the Respondent of being hostile. This was simply not evident on the recording or the transcripts. The Applicants were entitled to remain in the premises until their tenancy had been lawfully ended. Instead of taking proper steps and licensing the premises so that she could lawfully serve notice the Respondent and her partner sought to harass the applicants to such a degree that they had to leave the premises. This harassment, which was contrary to the Protection from Eviction Act 1977, occurred only at this the end of the Applicants' occupation but nonetheless it is important.
  
16. Whilst in some cases reductions have been made from the full 12 months penalty, in this case the harassment is clearly a relevant factor not only as a stand-alone reason for a Rent Repayment Order but also it goes to the conduct of the Respondent. The Tribunal hopes that this order will be a salutary reminder to the Respondent (who is clearly an experienced landlord) that it is not appropriate to seek to avoid legal proceedings when taking possession of premises. In this case the Tribunal will award the maximum award for the relevant period. The amount claimed by the First Applicant was £7240 and the Second Applicant was £6590. This award is appropriate but the tribunal needs to deduct the utilities incurred by the Respondent which amount to £3061.58 (council tax and TV licence are excluded). The deduction needs to be divided



between the two penalties. The tribunal have calculated that the average number of tenants in the premises over the relevant period was three and as only two of them are taking part in these proceedings the utilities cost needs to be apportioned accordingly. Two thirds of £3061.58 is £2041.05. This sum then needs to be divided by the two applicants making £1020.53. If one then deducts these amounts from the amount claimed by the Applicants the following penalties are arrived at:

First Applicant :£6219.47

Second Applicant: £ 5569.47.

17. There is no mitigation for these awards because the Respondent admitted that she did not have a licence despite knowing she was required to have one, albeit that she did not admit the harassment.
18. The Tribunal will also require the Respondent to pay the Applicants' application and hearing fee (£300) divided by two.

## **Order**

The Respondent shall pay the First Applicant £6369.47 within 14 days.

The Respondent shall pay the Second Applicant £5719.47 within 14 days.

**Judge Shepherd**

Judge Shepherd

7th July 2022

## ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.