



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

Case Reference : **LON/00AC/HMF/2022/0029**

Property : **37 Chiltern Gardens, London NW2 1PU**

Applicant : **Farah Meraj and Jessica Onwudinjo**

Representative : **Legal Road Limited**

Respondent : **Mr Milan Korenko**

Representative : **In person**

Type of Application : **Application for a rent repayment order by a tenant under sections 40, 41, 43, 44 and 46 of the Housing and Planning Act 2016**

Tribunal Members : **Tribunal Judge Dutton
Mr A Parkinson MRICS**

Date of Hearing : **17th August 2022 and 13th October 2022**

Date of Decision : **21 November 2022**

DECISION

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DECISION

- 1. The Tribunal determines that the Respondent Mr Milan Korenko has committed an offence under section 72(1) of the Housing Act 2004 in that he had control or management of an unlicensed HMO as defined by the Additional Licensing Scheme brought in by the London Borough of Barnet on 5th July 2016 and expiring on 4th July 2021.**
- 2. The Tribunal determines that the sum of £3,571.05 is due to be repaid to Farah Meraj and the sum of £3,361.47 is to be repaid to Jessica Onwudinjo, both payments to be made within 28 days of the date of this decision.**
- 3. The Tribunal also orders the Respondent to reimburse to Legal Road Limited in respect of the Tribunal application and hearing fee such payment to also be made within 28 days of the date of this decision.**

BACKGROUND

1. By an application dated 26th January 2022 the Applicants Farah Meraj and Jessica Onwudinjo applied to the Tribunal for a rent repayment order in respect of a period of their occupancy of the property 37 Chiltern Gardens, London NW1 1PU (the Property). The Respondent who is the owner of the freehold of the Property is Mr Milan Korenko.
2. It was said in the application that Miss Meraj had originally entered into an assured short hold agreement with the Respondent running from 1st October 2018 and subsequently extended until 28th February 2021. The rent during this period was £736.66 per month. In her application she alleges that she was illegally evicted by the Respondent but there is no claim made in respect of that allegation in these proceedings.
3. Miss Onwudinjo rented a room in the Property from 1st June 2019 continuing until 28th January 2021 at a monthly rent of £679.67. It is said that the claim period runs from 28th January 2020 until 28th January 2021. We will come back to this point later in the decision.
4. It seems to be uncontentious to record that the Property is in the London Borough of Barnet and at the time of the alleged offence was the subject of an Additional Licensing Scheme, which had run from 5th July 2016 until 4th July 2021. Enquiries of the local authority confirmed that the Respondent had not applied for a licence under the scheme for the subject property.
5. It was said that the Property met the HMO standard test as defined by section 254 of the Housing Act 2004 in that there were four or more people living at the Property in two or more households sharing various amenities.
6. It was said that the breach of the control or management of an HMO under section 72(1) of the Housing Act 2004 (the Act) resulted in an offence being committed under section 40 of the Housing & Planning Act 2016 (the 2016 Act).

The relevant sections of the 2016 Act is shown at the end of this decision as is the provisions contained at section 72 of the Act.

7. The application goes on to say that we must be satisfied upon reasonable doubt that an offence has been committed and if we are, then an order for rent repayment can be made for a period not exceeding 12 months during which the landlord has committed the offence and in this case such application must be issued within 12 months of the date upon which the offence was committed.
8. We had before us a substantial number of the papers, which had unfortunately been submitted to us in a number of PDF bundles. This made it difficult to follow the paperwork. The Applicants' bundles ran to some 413 pages and the Respondent's bundle, which was in three parts, contained separately numbered pages in each part.
9. In addition to the Respondent's bundle, the Applicants had filed a reply.
10. The matter came for hearing on 17th August 2022 and was reconvened on 13th October 2022 for the purposes of clarifying certain issues.
11. The bundle contained witness statements from both Miss Meraj and Miss Onwudinjo. In Miss Meraj's witness statement she gave us her personal details, confirmation of the tenancy agreement and that the Respondent Mr Korenko was the owner of the Property having acquired the freehold it would seem in March of 2005. Miss Meraj confirms that she vacated the Property on 27th February 2021 and lists the rental payments made by her, the last one of which appears to have been for the month of December 2020 when payment was made to the Respondent. The witness statement then goes on to outline the legal matters relating to this application and asserts that there were four or more tenants at the Property during the period in dispute, which is from January 2020 to January 2021. It should be noted however that at the end of November of 2020 the number of tenants reduced to three and there is no claim in respect of this month and certainly from the witness statements of both Applicants this is when the claim stopped.
12. It is said by Miss Meraj that the four tenants in the Property were a Richard Scriven who was a partner of Bal Kaur who is the person named on the letting agreement, both the Applicants and a Monica Pirau. The schedule attached at page 24 of Miss Meraj's witness statement indicates that from January 2020 there were five people living at the Property although in November 2020 this reduced to four and in December of 2020 it reduced to three. In January of 2021 and here lies the real issue in this case, it appears that a person named Matteo/Martin moved into one of the rooms at the Property previously occupied by Monica Pirau and remained there until the Applicant Miss Meraj left in February of 2021. In her witness statement at paragraph 15.5 she seeks a declaration that the Respondent should pay to her eleven months' of rent from January 2020 until November 2020 totalling £8,103.26. There is also a request for a refund of the fees and legal costs. This witness statement was dated 9th May 2022.

13. Miss Onwudinjo also made a witness statement, which recites much of the same information including details of the rent that she paid up to January of 2021. She provides the same list of occupiers of the Property and seeks to recover her rent for the same period as claimed by Miss Meraj, in her case though totalling £7,700. She also makes the claim for fees and costs. Her witness statement is also dated 9th May 2022. There are a number of exhibits attached to the witness statements. These include copies of the tenancy agreements, the legal title to the Property and copies of bank statements showing payments that had been made.
14. In another set of PDF documents were various copies of text messages passing between the parties. Of relevance appears to be reference in some of these to Monica being at the Property and discussing the heating, also the attendance of cleaners and what appeared to be the resolution of some communication difficulties between the tenants. There were also emails concerning the untidiness of the Property directed it seems at Miss Meraj and concerns that with the cleaner not attending there still seemed to be a demand for payment of the costs of same. Insofar as these text messages are of assistance to us, we have noted the contents. There are also in another exhibit copies of texts passing between the tenants and in particular from and to Monica. One email that was highlighted is from Luxury Developments which appears to be the company owned or controlled by Mr Korenko which he says at one point in an email dated 13th January 2021 *“I have advised you that previous three tenants have left the Property because of these consequences while attitude never changed.”* This is apparently a complaint made about Miss Meraj and the storing of various items in or about the Property. To an extent, this is a repeat of complaints contained in an earlier email to Miss Meraj dated 14th December 2020 when he talks of other tenants having vacated because of her apparent harassing, disruptive behaviour. It was around this time that the Respondent sent notices to the tenants at the Property, at that time being the two Applicants and Miss Kaur asking them to vacate within one month. This was challenged by Miss Meraj who gave the Respondent details of the latest Government arrangements in respect of rented accommodation during the Covid period. There are a number of photographs that have been provided, particularly in December of 2020 and February of 2021 when it is clear that building works are being undertaken at the Property in February onwards.
15. An exhibit 11 to the Applicants’ documentation (page 409) is an email chain which starts an apology for apparently not informing the Respondent that people had left the Property, although it does say the following:

“I apologise for not informing you however, for several months five of us lived at the Property. Two had moved out so surely my boyfriend being here for a couple of weeks due to the lockdown should not make a difference to the overall numbers.”
16. The response from the Respondent is as follows:

“The difference is, if there is an issue and someone complains! He doesn’t have any contract and for this reason he is breaking the law. He can’t be legally there.”

- The response to this by Miss Meraj is “*May I see Matteo’s contract?*” to the reply given by Mr Korenko which is “*I can’t pass personal details, you need to ask him.*” These exchanges appear to have taken place at the end of January 2021.
17. In addition to these text messages there are exchanges between Miss Onwudinjo and the Respondent concerning the occupancy of the Property by Matteo/Martin and complaining about his behaviour, which Mr Korenko says he was sorry about and that he would speak to him. We were also provided as a matter of comment with copies of applications made by Mr Korenko to increase the rent for the room occupied by Miss Onwudinjo.
 18. One further text which is of interest is from Miss Onwudinjo to Mr Korenko in which she asks in February of 2021 why he had asked for £230 from the deposit. His response was as follows: “*It is for another person living in the Property living with you. The room was let on a single basis only, see AST agreement. You never consulted this option with me while I paid all the bills in the Property. I believe his few weeks’ stay was very cheap for £230 despite causing me issues with HMO regulations.*”
 19. The Respondent’s bundle was broken down into three parts. It contained what is headed as Statutory Declaration from Mr Korenko in which he says the Property is three-bedroomed only and that it had only been rented out to three tenants with main residence status. There does not appear to be any contention as to the period for which Miss Meraj occupied the Property. It is said that there is rent arrears and that Miss Meraj had struggled to pay her bills. There is also an allegation that Miss Meraj permitted further people to occupy the Property without his approval and caused damage to the Property including ‘mountains of mess, rotting food and rodents’.
 20. It appears that Mr Korenko contacted the Police in February concerning Miss Meraj’s occupancy and the allowing of others to be at the Property without his consent. It is not clear what came of that. What is clear, however, is that he attended the Property with his wife in or about 6th or 7th February 2021 in an attempt to help Miss Meraj find alternative accommodation.
 21. It seems that at this time two Police officers did attend but they had been called by Miss Meraj’s mother but matters were resolved without difficulty.
 22. Insofar as Miss Onwudinjo is concerned, again there seems to be no particular argument relating to her period of occupancy but Mr Korenko complains that Miss Onwudinjo allowed her boyfriend to occupy the Property for quarantine purposes and that she was therefore in breach of the agreement. As to Miss Bal Kaur, again the period of occupancy is confirmed with her vacating on 31st January 2021 and there appears to be no acceptance that anybody was living with her.
 23. The statutory declaration from Mr Korenko’s wife, Miss Maria Korenkova adds little. The bundle also contains copies of the tenancy agreements for both Applicants as well as the deposit protection details and an inventory checklist. Photographs of keys were provided as these became something of an issue at the hearing, although in truth not really relevant to the matters that we had to decide. Bank statements were also produced to confirm payment of rent monies. In the

final tab to the Respondent's papers were photographs taken of the Applicants intending it would seem to show that they had people at the Property and also the condition of the living room said to contain a number of items belonging to Miss Meraj. There were also photographs of what appeared to be rotting items of food and rubbish external to the Property. At page 14 of the third bundle was a list of Property expenses, which included water, council tax, gas and electricity, insurance, TV licence and broadband, which for the period from February 2020 to January 2021 appeared to total £4,878.16 which we will return to in due course. There are supporting invoices although we can record in the decision that the Applicants did not take issue with the figures shown on the spreadsheet.

24. The further written documents included a response from the Applicants to the Respondent's statutory declaration and other associated documents. Of relevance is the rebuttal that the front facing room downstairs was not used as a bedroom. It was said by the Applicants that this was rented out over the period to Monica Pirau and Matteo/Martin. It also confirms that the Applicants' view is that the top floor bedroom was occupied by Ms Kaur and her partner Richard Scriven who lived there for some time, vacating it would seem in October.
25. It was said concerning Matteo/Martin that he was staying in the room on the ground floor for a reduced rent whilst working at the Property. We have noted the other matters contained in the response, which appears to be signed only by Miss Onwudinjo.
26. At the hearing it was confirmed that the Applicants were only claiming the rent until November of 2020 when the number of people was reduced to three. However, in January of 2021 Matteo/Martin moved in sometimes with a friend, which made the numbers back up to four and sometimes five. Miss Meraj gave evidence which confirmed her witness statement. It appears that in the early days of her tenancy agreement there had been a cleaner and at that time there had been some five people living at the Property. The cleaning cost was supposed to be included within the rent and involved a communal cleaning of bathrooms and the kitchen.
27. As to occupiers she confirmed that Mr Scriven lived with Bal Kaur as her partner and had been in occupation from 2018. Their relationship broke down but he remained at the Property until October of 2020.
28. With regard to Monica Pirau, Miss Meraj confirmed that she moved into the Property in March of 2020 and before then the ground floor room had been occupied by someone called Pavel who stayed there until February of 2020.
29. Miss Meraj said she had spoken to Monica Pirau who had told her that she was paying rent by cash but she did not have a tenancy agreement. However, they relied on the text messages that we have referred to above as indicating that the Respondent was well aware that Monica was living at the Property, certainly from April 2020.
30. Miss Meraj confirmed that Matteo/Martin moved into the Property in the first week of January of 2021 with his friend and accordingly whilst there may have been no offence committed in December of 2020, the offence was being

recommitted in January of 2021. Matteo had told her that he was a construction worker, working for Mr Korenko. Ms Meraj felt that he was drinking excessively and she was not told when he was moving into the Property. It appears that he started working at the Property in February. At this point she was, she says, “coerced” from the Property. A notice to quit had been served. She confirmed that she had paid no rent for February but that the deposit had been taken by Mr Korenko to pay the January rent.

31. Reference was then made to a statement that had been made by a Miss Pamela Bhanvra-Adams, which appears to have been included in an email on 5th May 2022. She tells us that she has lived next door since 2015 and that during that time Mr Korenko had been renting the Property normally five people at a time. She confirms the identity of the Applicants, Mr Scriven and Miss Kaur and Miss Pirau. There are details concerning planning which apparently caused some issue and suggestions that there were steps taken by Mr Korenko to intimidate Miss Meraj. The problem with this statement is that there is no statement of truth and Mrs Adams did not attend the hearing.
32. We heard also from Miss Onwudinjo. She told us about a notice that had been sent to her seeking to increase the rent and that she was aware that Mr Korenko wished to have the Property empty as he was looking to renovate. She told us she supported all that Miss Meraj had said both to us and in her witness statement. Mr Korenko had no questions for them.
33. He then gave evidence relying on his statutory declaration. He said there was no HMO licence for the Property. He had received the letter from the Council and had telephoned them telling them that there were only three people on contracts and the matter had gone no further. Insofar as the additional occupants were concerned, he said that he had met Mr Scriven in the gym and knew that he was Miss Kaur’s boyfriend. He thought that he was helping her with the Property and with the shopping. He understood that Miss Kaur had difficulties but he did not appreciate that Mr Scriven was living there other than as a guest.
34. Insofar as Monica Pirau was concerned, he said that she was a property agent and that she had assisted him finding tenants for the Property. He said that she collected rent from other properties which she was managing. She was not, he said, a permanent resident, had no contract and paid no rent to live at the Property. She did get commission. He did not reduce the commission to reflect any rent. He told us that he had three rented properties, two in Barnet and one in Hackney and that he had been a professional landlord since 2005. There were some comments concerning the cleaning arrangements, which had ceased. Apparently he collected cash from the tenants and paid the cleaners in cash, but they did not attend the Property because of lockdown. He mentioned the need to obtain a new door to Miss Meraj’s bedroom because she had apparently changed the lock and no left the appropriate key. There were some photographs of keys but they were not of great assistance to us. He did tell us that he had indicated that he would forget any damage claim and would accept the deposit for the January rent, but then in fact told us that he would be taking the rent for February as January still remained outstanding.

35. Insofar as Matteo was concerned, he said that he was doing building work for him and that the Property was not his main residence as he lived in Finchley. He stayed there in January to deal with works in the garage. Mr Korenko said he found it difficult to get workers because of Covid but that Matteo/Martin was from Slovakia, the same as him. He accepted that there had been complaints about his behaviour which he had warned him about but there were also suggestions that Miss Meraj had been difficult with the builders.
36. Insofar as Mrs Adams' witness statement was concerned, he said that there had been a right of light claim between the parties which prejudiced her against him. He did not think that she was independent. She had apparently complained about the planning sought and wanted to recover her fees but her claim was dismissed. Further questions were put to Mr Korenko by the Applicants, initially concerning Monica suggesting that she had moved in March of 2020 and moved out in November of 2020. They suggested to Mr Korenko that she acted as the co-tenant and had had Covid and was at the Property on a permanent basis. Mr Korenko said the Property was not let to her as a permanent residence. He did not have any other address for Monica but she mentioned she was living in Cricklewood. He confirmed that she was still his agent but he does not have an address for her. She arranged for deposits to be collected and managed the Property from a cleaning point of view but nothing else. She did not collect the rent.
37. He was asked by the Tribunal about Monica's self-employment. We were told that she was paid commission for the rooms rented and that she dealt with finding tenants, obtaining references and bank details. In regard of repairs, it appears that she referred those matters to Mr Korenko and he would deal with them. There had been difficulty in running the Property in 2020 and he accepted that commission included rent-free accommodation at the Property.
38. He then suggested that he had allowed Miss Meraj's mother to stay at the Property. The house he said was three-bedroomed with a fourth room on the ground floor where people could stay from time to time. He did not, he said, rent out the ground floor as he knew about the HMO requirement. He confirmed that there was a study on the first floor but it was probably too small to be used for living accommodation.
39. Miss Meraj added some further matters to her evidence. These included confirmation that Monica had never mentioned to her that she was working for Mr Korenko. She was present at all group meetings and there was no indication that she had any special relationship with the Respondent.
40. Mrs Aitcheson acting on behalf of the Respondents handed in a chronology which referred to the documents in the bundle to assist with ease of understanding. This showed, by reference to documents in the bundle, the periods of occupancy which are not disputed concerning the Applicants and Miss Kaur. Insofar as Mr Scriven was concerned, documents in the bundle it was said supported the fact that the Respondent was aware of his occupation, in particular an email that the Respondent wrote confirming that Mr Scriven paid separately for his bathroom and common part cleaning. From the documentation it appears that Mr Scriven had been in occupation for some time possibly before Miss Meraj moved in but

that he vacated in October of 2020. Insofar as Pavel was concerned, it appears that he had moved in at some time in the summer of 2019 and vacated in February of 2020. This is evidenced by a group chat which was forwarded by the Respondent to Miss Meraj and others, which includes Pavel in that discussion.

41. Insofar as Monica Pirau was concerned, it is said that she moved in in March of 2020 and out at the end of November 2020 and there are a number of emails where Monica's name is mentioned, for example one on 27th October 2020 where Mr Korenko acknowledges that Monica was at the Property because she was involved in some heating issues. There are email exchanges which confirm Mr Korenko's knowledge of Miss Pirau at the Property. Finally, there is some evidence concerning the occupation by Matteo, also known as Martin, who moved in in January of 2021. His period of occupancy is not challenged by Mr Korenko but the basis upon which he was staying there is.
42. There was an adjournment at lunchtime and then we returned questions of conduct and other matters were discussed. Mr Korenko raised questions concerning the actions of the Applicant and others in allowing other persons to live at the Property with them, for example in the case of Miss Onwudinjo who had let her boyfriend stay there and Miss Meraj who appeared to have had her mother, brother and aunt at some time or other staying at the Property.
43. As to conduct they referred to the service of notices seeking possession when those should not have been done and other issues concerning apparent mice infestation. The Applicants did, however, say that they were satisfied with the figures shown on Mr Korenko's statement regard to outgoings. It was confirmed that Mr Korenko was not convicted for any offence relating to this Property and had no previous convictions. The Applicants confirmed the sums that they were claiming were as set out in their witness statement.
44. Mr Korenko said he was not in breach and therefore no rent repayment order should be made. There were he said inconsistencies about the ground floor occupancy and that Monica's occupation was not in one tranche but that there had been gaps.
45. At the conclusion of the hearing and after discussions we felt it appropriate to invite the parties to clarify the position with regard to the occupancy of the Property in January of 2021. This resulted in a reconvened hearing on 13th October 2022 when both Applicants and the Respondent attended. This hearing was conducted by video and we had available to us submissions that had been made by the Respondent and the Applicants. The Applicants' responses were largely photographic. At the hearing the Applicants sought resile from their witness statements and in fact sought to claim rent for January as well. It was, however, established that both the Applicants were living in the Property until the end of January 2021, Ms Meraj in fact to the end of February 2021. Miss Kaur was at the Property until the end of January 2021 and Matteo/Martin was in the property from the beginning of January 2021 and remained there after Ms Meraj left.
46. Miss Onwudinjo said that she first saw Matteo at the beginning of January when he told her he was going to be living at the Property whilst working for the

Respondent. He lived in the room on the ground floor, had parties and invited friends over. He would frequently get drunk and when she complained to Mr Korenko said that he would speak with him about it. She did not think the work started at the Property until February.

47. Matteo arrived at the Property unannounced. He was living there for some time using the facilities and did not start work until February of 2021.
48. Mr Korenko was asked whether Matteo/Martin's partner stayed. Mr Korenko said he did not know. He was not at the Property. He did not know the name of Martin's partner and there was no agreement with him. He did not know him and he had done a week's plastering in the loft. As far as the work in the garage was concerned, this was plumbing and electrical connections which they wanted to finish before they started work on the interior of the Property. Mr Korenko told us that he paid Matteo on an hourly basis but had no records and did not seem to know where he lived. Apparently he would stay late from time to time and he thought that he may live in the Finchley Central area. He had apparently worked for Mr Korenko previously. He was not sure whether he had a permit to work but he believed he had a settled status as he had been in the Country for over eight years. No rent was paid and no contribution was made to the outgoings.

FINDINGS

49. An offence under the 2016 Act is covered at section 41 and enables a tenant to apply for a rent repayment order only if a). the offence relates to housing but at the time of the offence was let to the tenant and b). the offence was committed in the period of 12 months ending with the day on which the application is made. In this case the application was made on 26th January 2022. The question therefore we need to be satisfied firstly is to determine whether an offence was committed within the period of 12 months ending on that day of the application.
50. The witness statements from the Applicants appear to stop their claim at the end of November 2020. They sought to resile from that at the second hearing explaining that there was some error, although there was no convincing argument given for such an error to have occurred.
51. The period to November 2020 is the first that we must consider. We are satisfied beyond reasonable doubt that from the beginning of January 2020 there were at least four if not five people living at the Property. We have evidence from emails which are not countered by a Mr Korenko, that Pavel was certainly living in the Property in the early part of the year. It then appears that Monica resided in the Property in March of 2020 as again evidenced by various emails and the evidence given to us by the Applicants and that she left in November 2020. The suggestion by Mr Korenko that she was not a tenant or an occupier seems to us to be false. It seems quite clear from the text exchanges that he was aware that she was at the Property and that she was engaged in the life of the community at 37 Chiltern Gardens. If she were not an occupier on a regular basis, bearing in mind that he still seems to be utilising the services, we would have thought that he could have obtained a witness statement from her confirming the arrangements whilst she was living at the Property. He told us in evidence that she was still his agent but

somewhat surprisingly he did not have an address for her. We found his evidence unconvincing on this point and preferred the evidence of the Applicants that Monica was at the Property from March 2020 until 30th November 2020.

52. Miss Meraj says that she spoke to Monica who said that she was paying some rent in cash. It is quite clear that Mr Korenko knew the position with regard to the number of tenants he could have in occupation and it may well be that such rent payments were taken in cash. However, we find that she was resident at the Property during the period March to November and that accordingly there were no less than four people living at the Property during that time which was the Applicants' Miss Kaur and Monica Pirau. In addition of course there was Miss Kaur's partner Mr Scriven who also seems to have been accepted as an occupier by Mr Korenko in that he is included in various text exchanges. Accordingly, we find that certainly until the end of November 2020 Mr Korenko was letting the Property to four or more people and did not have the additional licence from the local authority. Accordingly an offence was being committed to 30th November 2020 and certainly from the date in March.
53. As we have said above, for the Applicants to be able to succeed they need to show that the offence was committed within the 12 months of the application being made. If the offence had stopped in November of 2020 their application on 26th January 2022 would have been out of time. The case therefore hinges on the occupancy of the Property by Matteo/Martin. It does not seem to be contested that he was at the Property from the beginning of January and still there when Miss Meraj left in February of 2021. Mr Korenko says that he was not a tenant but that he was staying there to undertake building works. His evidence is that those building works started in January of 2021 but were confined to the garage involving drainage and electrical work. It is certainly clear from the photographs that we have been provided that building works were being undertaken to the interior of the Property from February 2021 onwards.
54. It is necessary for us to be satisfied beyond reasonable doubt that at the time of the application an offence had been committed within the 12 month period. We are satisfied that Matteo/Martin was occupying the Property as his principle or main residency from the beginning of January onwards. Mr Korenko denies that he paid rent. No evidence has been given to us to rebut that, however we are in no doubt that Matteo, and on occasions his friend, were occupying the Property as their main or principle residency. Photographs of the bedroom have been produced which do not include evidence of any sheets or blankets. However comment was made at the second hearing that those were in or about the Property. There is a photograph showing a toothbrush. The evidence from the Applicants is that Matteo was living at the Property. He had parties, caused a nuisance and Mr Korenko confirmed that he would take steps to stop that happening. We have considered section 254 and 259 of the Act and also the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.
55. It would have been easy enough for Mr Korenko to have provided some form of evidence from Matteo to confirm whether or not this was indeed his principle or main residency and to have provided another address said to be in Central Finchley where he lived and was his base. He has not done so. He was given

ample opportunity to do so. In this regard we have taken into account the submissions made by Mr Korenko on our request to do so. He says that on the Applicants' evidence the room was empty and was used for the builder's temporary stay while working at the Property and finishing late. The evidence we have from the Applicants is that Matteo/Martin was there regularly using the facilities and staying there as his residence. The fact that he had been there from the beginning of January until Miss Meraj left in February leads us to the finding that on the balance required for these proceedings, that is to say beyond reasonable doubt, he was in occupation of the Property as his only or main residence. In those circumstances at the time of the application there were four people living at the Property and under the Council's additional licencing requirements a licence should have been obtained.

56. There is some uncertainty as to the occupancy of Pavel at the beginning of 2020. It is said on the sheet provided to us by the Applicants that he moved out in February of 2020. It is said that Miss Pirau moved in in March of 2020. We do not know the dates. It seems to us that on this point it is for the Applicants to satisfy us that the period they seek to recover rent for is correct. We are satisfied beyond reasonable doubt that from a date in April 2020 to 30th November 2020 this Property was occupied by four or more people and required to be licensed.
57. We are satisfied beyond reasonable doubt that the time the application was made in January of 2022 the offence for which a rent repayment order can be made under the 2016 Act was continuing.
58. However, we are only prepared to make an award in respect of the rent from the period of 27th April 2020 when the existence of Monica is mentioned in an email to the Respondent, which he does not refute, until her departure on 30th November 2020. We do not have an earlier specific date. We have been provided with email chains which are difficult to follow and contain duplication
59. Insofar as Mr Meraj is concerned she says that she paid rent at the rate of £736.66 per month. This gives a daily rate of £24.21, which equates to a total sum of £5,279.73 when multiplied by 218 days.
60. Miss Onwudinjo on her application said that the monthly rent that she paid was £679.67. In her witness statement she recites that the rent that was payable was £700 per month. The tenancy agreement confirms this figure of £697.67. This gives a daily rate of £22.93. The monthly rental of £697.67 gives a daily rate of £22.93 multiplied by 218 to provide an award of £5,000.29 .
61. We should say in both cases this is the maximum sum that we would feel able to award in the circumstances of this case. However, it is appropriate to make deductions from that in respect of the agreed expenses that were met by the Respondent as set out at page 14 of his third bundle. In tabular form they are under the heading Water the sum of £637.57, under the heading Council Tax £1,962.69, under the heading Gas and Electricity £1,308.70, under the heading Property Insurance £538.92, under the heading TV Licence £154.40 and under the heading Broadband £275.88.

62. These expenses are however inclusive of February and March. We do not think that the costs of insuring the building are expenses that should be outgoings payable or contributed towards by the tenants. Accordingly on our calculation the total amount of the outgoings is £4,339.24. This is for the year. The daily rate is £11.88, which on our calculation gives a total for the period from 27th April to 30th November 2020 of £2,591.65. For much of that time the Property was being occupied by the Applicants, Monica Pirau, Miss Kaur and Mr Scriven. It seems reasonable, therefore, to divide the amount that was incurred in respect of the expenses five, which gives a liability of £518.33 for each of the Applicants.
63. Accordingly applying that deduction to the rent repayment that we find is due for Miss Meraj of £5,279.73 gives an award subject to other matters of £4,761.40.
64. In respect of Miss Onwudinjo her original award would have been £5,000.29 which subject to the deduction for outgoings brings it down to £4,481.96.
65. We must then consider whether any further allowances should be made in the Respondent's favour. We bear in mind the recent Upper Tribunal authorities starting with Williams v Parmar [2021]UKUT0244(LC) which is a decision of the Chamber President Mr Justice Fancourt in which he addresses the level of repayment that can be made. In paragraph 52 of the decision he gives credit to the Respondent in this case that she was a first offender with no relevant convictions. She was however a professional landlord who should be taken to have known the requirement for licensing. In the circumstances of this case he made a reduction of 20%.
66. We do not consider there is any conduct on the part of the Applicants that we need to take into account
67. We are of the view as is said in a number of Upper Tribunal authorities that the maximum possible amount to be ordered would only be made in the most serious cases or where there is some other compelling unusual factor justified.
68. In this case we no doubt that Mr Korenko was aware of the requirements to have his Property licensed. Indeed in some of the texts that we have recited he refers to that position. There can, therefore, be no doubt that he was aware that he was breaking the law. He hides behind the fact that in the case of Mr Scriven he was at the Property with his partner but it is clear also that Mr Korenko knew this was the case. Further we were not impressed with Mr Korenko's evidence concerning the occupancy of Monica Pirau and as we have indicated above, we found that she was an occupier within the meaning of the Act, which lifted the number of occupants to the Property to five and sometimes only four. Four was enough for an offence to be committed. Likewise, his assertions concerning Matteo/Martin are not compelling. It would have been easy enough for him to adduce evidence to show that Matteo/Martin was not living at the Property. The evidence of the Applicants is that he was there throughout January and into February 2021, until Ms Meraj vacated.
69. He is by his own admission a professional landlord. We need to consider the seriousness of offence. There is no suggestion that the Property was not in good condition. There is no doubt that towards the end Mr Korenko treated Miss

Meraj in a somewhat cavalier manner but that period was beyond the 12 months and it is not relied upon the Applicants as a ground for the rent repayment order. In addition, towards the end of the agreement, he served notices to quit which he should have known were not effective given the Covid arrangements and sought to serve a notice to increase the rent, which he was probably entitled to do but it seemed to us they were served with the sole intention of “persuading” the tenants to vacate.

70. By the end of January there was only Miss Meraj and Matteo on the Property and his ends were achieved the following month when Miss Meraj vacated.
71. Mr Korenko was written to by the local authority advising him of the need to obtain a licence but he responded saying that there were only three people living at the Property when we consider that he knew that not to be the case.
72. Taking the matter in the round we have come to the conclusion that a reduction of 25% from the figures that we have found would be maximum award represents an appropriate rent repayment order in this case. Accordingly for Miss Meraj we find that there should be a rent repayment order of £3,571.05 and in the case of Miss Onwudinjo the sum of £3,361.47. Both sums should be paid within 28 days and we order that the Respondent refunds to Legal Road the application and hearing fee of £300 which they can pay out to the party who put them in funds.

Andrew Dutton

Judge: _____
A A Dutton

Date: 21 November 2022

ANNEX – RIGHTS OF APPEAL

1. 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 at the Regional Office which has been dealing with the case.
2. 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.
3. If the application is not made within the 28-day time limit, such application must include a request to 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 identify the decision of the Tribunal to which it relates (ie 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.