



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

**Case reference** : **CAM/00MC/HNB/2022/0002**

**Property** : **1 Hexham Road, Reading, Berkshire, RG2  
7UQ**

**Appellant** : **Mohammed Safdar**

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

**Respondents** : **Reading Borough Council**

**Representative** : **Ms Pattni**

**Type of application** : **Appeal against financial penalties**

**Tribunal** : **Judge Shepherd  
Alison Flynn FRICS  
John Francis**

**Date of Decision** : **25th February 2023**

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**DETERMINATION**

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1. This is an appeal against a penalty notice imposed by Reading Borough Council (“The Respondents”). The Appellant is Mohammad Safdar (“The Appellant”). He is the owner of premises at 1 Hexham Road, Reading, Berkshire RG27UQ (“The premises”) The penalty notice appealed was issued under s.249A of the Housing Act 2004 as an alternative to prosecution.

2. The Respondents allege that the Appellant was operating an unlicensed HMO at the premises and as such he was guilty of an offence under s. 72 of the Housing Act 2004. The penalty notice issued was £22861. This is £20000 reflecting the Appellant's property portfolio, culpability and harm; £1000 for four aggravating features and £1861 for the Respondent's costs.
3. The Appellant's appeal against the FPN was received by the Tribunal on 6<sup>th</sup> July 2022. Essentially, he complained that he had a reasonable excuse because he had let the premises to two of the tenants Daniel Grigoras and Alexandra Chira as a family home and they had sublet to others without his permission. In other words he was not aware that the premises were being used as an HMO. There are separate criminal proceedings taking place in relation to the authenticity of a tenancy agreement allegedly granted by the Appellant to Mr Grigoras and Mr Chira. This aspect of the case played no part in the Tribunal's decision. The Appellant also complained about the level of the FPN.
4. On 22<sup>nd</sup> February 2021 the Respondents received an unlicensed HMO report from Alexandra Chira. She said that she lived at the premises and that property was occupied by five or more people. On the 24<sup>th</sup> of February 2021 Michael Bligh, Business Support Officer sent a letter to the Appellant stating it had been brought to the Respondents' attention that the premises was a House in Multiple Occupation (HMO) that may require a licence. On the 14<sup>th</sup> of September 2021 the Respondents' private sector housing team received an e-mail from Gemma Adams, Housing Advice Support Officer who asked if they had details for the Appellant. A family had got into contact to say they had been given notice by the landlord to leave. The family was Alexandra Chira and Daniel Grigoras. Gemma explained that Alexandra had said that the property contained 7 adults and three children.
5. On the 27<sup>th</sup> of September 2021 the private sector housing team received an e-mail from Lindsey Little, Early Help Family Worker at Brighter Futures for Children. She said that her clients were Aygan Arif and Teodora Doneva who lived at the premises. She had concerns regarding possible exploitation by their landlord. She was concerned that the tenants were not provided with any proof of payment and told to pay cash only.
6. On the 5<sup>th</sup> of October 2021 Katie Newton of the Respondents visited the premises with her colleague Dennis Walker. They undertook an unannounced inspection. They entered the rear of the property into a conservatory. The Conservatory led onto the kitchen. There was a hallway off the kitchen where the staircase was located and also a bathroom. The staircase led up to the first floor. The first floor consisted of a front left bedroom, front right bedroom, rear left bedroom, rear middle WC and right shower room. She met Aygan Arif and Theodore Doneva and their two young children. They were occupying the

front left and front right bedrooms on the first floor. They explained that the landlord had recently insisted on payment of rent by cash only but they'd paid by bank transfer on previous occasions. She also met the parents of Aygun Arif and Sevginer Simitchiera who occupied the rear left bedroom on the 1st floor. The occupiers at the ground floor were out. This was occupied by Alexandra Chira Daniel Grigoras and one child.

7. Witness statements were taken on the 8th of November 2021. In his statement Daniel Grigoras said he found the premises through a friend. He moved into the house and there were nine other occupiers. He paid the Appellant £450 a month and the Appellant decided whether it was by cash or bank transfer. Alexandra Chira moved into the same room with him in March 2019. He said he never received a tenancy agreement from the Appellant and he gave evidence of bank transfers he made. In her witness statement Theodore Doneva said that they'd met the Appellant in 2018. When they moved in there were five other people living in the house none of whom they knew. She said that the Appellant came to the premises to collect the rent in cash and counted it. She produced photographs of the Appellant counting cash on the 10th of August 2021 and the 11th of September 2021. They handed over bank statements showing evidence of payments. Aygan Arif in his statement confirmed the evidence given by his partner.
8. On the 2nd of December 2021 Ms Newton served a s239 Housing Act 2004 power of entry notice to the Appellant. She also sent a section 16 notice under the Local Government (Miscellaneous Provisions) Act 1976. On the 8th of December 2021 she visited the premises with Dennis Walker. They carried out an inspection and found there was evidence of occupation by a total of 10 people belonging to two different households all sharing the kitchen. There was evidence of payments of rent by both households via bank statements. She concluded that the premises were being used as an HMO under section 4 of the Licencing of Houses in Multiple Occupation Prescribed Description (England) Order 2018. A licence had never been applied for nor had there been a Temporary Exemption Notice (TEN). At the end of the inspection the Appellant gave Ms Newton a copy of a tenancy agreement between himself and Ms Chira and Mr Grigoras which has already been referred to above.
9. On the 9th of March 2022 the Appellant was interviewed under caution by Dennis Walker and Ms Newton. He accepted that the bank payments evidenced were paid into his accounts. He claimed he didn't know he was getting payments from miss Doneva and Mr Arif. He said he had not checked his bank accounts. When he was shown the photos of him counting money he said he was counting his own cash which he dropped.
10. On the 15th of March 2022 Ms Newton completed a financial penalty decision form illustrating how she arrived at the fine. She considered that the offence

had been committed deliberately and it was a major offence in terms of impact. When considering the financial means of the offender the number of properties owned by the Appellant (over 6) was taken into account. This meant that the starting point of the punitive fine applying the Respondents' matrix was £20,000 pounds with the four aggravating features and the officers' cost this amounted to £22,861. Mr Walker gave a witness statement which is largely corroborative of the statement given by Ms Newton.

11. Stuart Taylor, the Principal Environmental Health Officer also gave a statement in which he gave reasons for issuing a TEN to the Appellant on the 4th of January 2022. The notice had been recommended by Mr. Walker. The notice was given on the basis that the Appellant was taking possession of the premises and therefore a licence would no longer be required. It is expected that during the period of the exemption notice the premises will be cleared of tenants and accordingly would fall out of the need for licencing. Mr Taylor also dealt with initial submissions made by the Appellant and signed off the Notice of Intent to issue the financial penalty. On the 21st of July 2022 Mr Taylor served the financial penalty notice. Attached to his witness statement are the freehold titles for seven properties owned by the Appellant.

#### Relevant Law

12. Under s.72(1) Housing Act 2004 :

*(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.*

13. Under s. 249A Financial penalties for certain housing offences in England :

*(1) The local housing authority may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence in respect of premises in England. (2) In this section "relevant housing offence" means an offence under— ... (b) section 72 (licensing of HMOs), ... (e) section 234 (management regulations in respect of HMOs). ... (4) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £30,000*

## **The hearing**

14. Ms Pattni represented the Respondents and the Appellant represented himself. He said he thought the premises were being let to a family and they had sublet without his permission. Ms Newton confirmed her evidence. She confirmed that the Appellant had accepted in interview that the bank account numbers in which payments were made by the occupiers were his accounts. She went through her decision - making process in deciding the level of penalty. Under the Respondent's matrix the base punitive fine was £20000 because of the number of properties owned by the Appellant. There were aggravating features in terms of a failure to respond to warnings, high level of profit, attempting to conceal evidence and occupiers were especially vulnerable.
  
15. Mr Grigoras said room 2 in the premises was a garage that had been converted. He accepted that he had not paid the full rent during the pandemic as he was out of work. Mr Arif said he didn't know Mr Grigoras before he moved into the premises. He asked for a receipt for the payments made and had not received one. In cross examination the Appellant asked both Mr Arif and Mr Grigoras: why are you deceiving the court and not telling the truth?. Both witnesses said they were telling the truth. Ms Doneva gave evidence confirming that the Appellant had sometimes asked for payments in cash and sometimes by bank payment.
  
16. The Appellant repeated that he had dropped money in the premises on both occasions when photos were being taken and he was counting his own money rather than the rent he received. He said that the witnesses were lying and he said he was innocent. He also said that it didn't have any other HMOs. This was denied by the Respondents who are carrying out other inquiries into the HMOs owned by the Appellant.

## **Determination**

17. The tribunal has no hesitation in finding that the Appellant was an unlicensed HMO at the relevant time that the notice was served. He gave no proper cogent explanation of why he was receiving rent from two separate households paid into his bank account. His explanation for counting money at the premises was incredible. He plainly had received payment in cash but was

seeking to deny this because he was trying to show that he was not receiving rent from Ms Doneva and Mr Arif. Even before the Tribunal heard evidence from the Appellant this argument seemed fanciful not least because the local authority had brought proceedings before against him for the same offence and had been presented with the same defence. Having heard from the Appellant and the tenants at the premises the Tribunal have no doubt that he was the person lying. He had clearly sought to deliberately evade the licencing regime and was making a profit from the premises without properly making them safe. The tribunal accordingly find he is liable to be fined and the Tribunal does not interfere with the level of fine imposed by the Respondents. The matrix used for enforcement by the local authority was applied properly by the Respondents and therefore a penalty notice of £22861 is confirmed.

Judge Shepherd

25<sup>th</sup> February 2023

#### 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.