



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

Case References	: MAN/ooBY/HMF/2022/0014
Property	: Ground Floor Flat, 5 Victoria House, 34-36 Princes Road, Liverpool, L8 1TH
Applicants	: (1) James Forrester (2) Lewis Struthers
Respondent	: Trophy Homes Ltd.
Type of Application	: for a Rent Repayment Order under s.41(1) of the Housing and Planning Act 2016
Tribunal Members	: Judge P Forster Mr J Gallagher MRICS

DECISION

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Decision

The Tribunal is satisfied beyond reasonable doubt that Trophy Homes Ltd. committed an offence under s.72(1) of the Housing Act 2004.

The Tribunal makes a Rent Repayment Order under s.41(1) of the Housing and Planning Act 2016 and orders Trophy Homes Ltd. to pay £3,801.60 to James Forrester and £3,801.60 to Lewis Struthers.

Introduction

1. The Applicants, James Forrester and Lewis Struthers, have applied to the Tribunal for a Rent Repayment Order (“RRO”) under s.41(1) of the Housing and Planning Act 2016 (“the 2016 Act”).
2. The Applicants were two of five tenants of Ground Floor Flat, 5 Victoria House, 34-36 Princes Road, Liverpool, L8 1TH (“the Premises”) under an assured tenancy agreement for a term of 52 weeks from 1 September 2021 to 1 September 2022 at a rent of £88.00 per person per week. The Respondent, Trophy Homes Ltd., was the landlord under tenancy agreement. The Applicants paid for 44 weeks at £88.00 per week and 8 weeks at the reduced rate of £44.00 per week.
3. The Tribunal issued directions on 22 August 2022 and identified the issues to be considered. The parties were directed to provide full details of their case together with supporting documentation. The Tribunal directed that the application should be determined after a video hearing. The hearing was conducted by video on 28 March 2023. The Applicants represented themselves. The Respondent did not attend the hearing.

The Applicant's case

4. The Premises is a house in multiple occupation and was required to be licenced under s.61 of the Housing Act 2004. The Respondent failed to obtain a licence and therefore the Premises was unlicenced throughout the tenancy. The Respondent thereby committed an offence under s.72(1) of the 2004 Act. Each Applicant seeks a RRO for their share of the rent for the period 1 September 2021 to 30 June 2022 in the sum of £4,420.00 each.

The Respondents' case

5. The Respondent has not engaged in the proceedings and has failed to comply with the Tribunal's directions. The Respondent has not responded to the application.

The law

6. The relevant law is set out in the annex below.

The decision

7. The Applicants rely on an email dated 5 September 2022 from Jane Scales, a housing officer employed by Liverpool City Council. She states that the Council has no valid HMO licence was in place for the Premises during the period of the tenancy.
8. On the evidence, the Tribunal finds that the Premises required a licence under s.61 of the 2004 Act 2004 and that the Premises was unlicenced during the relevant period, 1 September 2021 to 1 September 2022. The Tribunal finds that the Respondent, being the landlord under the tenancy agreement, was in control of and managing the Premises during that period.
9. At the relevant time, the Applicants were tenants of the Premises and the offence was committed in the period of 12 months ending with the day on which the applications were made, 24 July 2022.
10. The Tribunal is satisfied beyond reasonable doubt that the Respondent committed an offence under s.72(1) of the 2004 Act, being a person having control of or managing the Premises which was required to be licensed and was not licenced.
11. The amount of the RRO is determined in accordance with s.44 of the 2016 Act. On the evidence of the Applicants' bank statements, the Tribunal finds that they each paid the rent in full. The Applicants were not in receipt of Universal Credit. Ten percent of the rent was in respect of utility charges and stands to be deducted from the amount paid by the Applicants.
12. The Tribunal makes a RRO against the Respondent under s.43 of the 2016 Act and orders the Respondent to pay each of the Applicants the sum of £3,801.60 (£4,224.00 - £422.40).

**Judge P Forster
28 March 2023**

ANNEX

Housing and Planning Act 2016

Section 40 Introduction and key definitions

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.
- (2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to—
 - (a) repay an amount of rent paid by a tenant, or
 - (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.
- (3) A reference to “an offence to which this Chapter applies” is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of unlicensed house
7	This Act	section 21	breach of banning order

Section 41 Application for rent repayment order

- (1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.
- (2) A tenant may apply for a rent repayment order only if —
 - (a) the offence relates to housing that, 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.

Section 43 Making of rent repayment order

- (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.

Section 44 Amount of order

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.
- (2) The amount must relate to rent paid during the period mentioned in the table.

<i>If the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to rent paid by the tenant in respect of</i>
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	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—
 - (a) the rent paid in respect of that period, less
 - (b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.
- (4) In determining the amount the tribunal must, in particular, take into account—
 - (a) the conduct of the landlord and the tenant,
 - (b) the financial circumstances of the landlord, and
 - (c) whether the landlord has at any time been convicted of an offence to which this Chapter applies