



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

Case reference : **LON/00BB/HMF/2022/0179**

**HMCTS code
(paper, video,
audio)** : **Face-to-Face**

Property : **95 Pinnacle House, 4 Schooner Road,
London E16 2RF**

Applicant : **Ms Sejal Patel**

Representative : **Mr Faisal Ejaz**

Respondent : **(1) Century 21 (previously trading as
RE/MAX Central)
(2) Mr Mohd. A. Karami M S AL-AMADI**

Representative : **(1) Ms P Su**

Type of application : **Rent Repayment Order**

**Tribunal
member(s)** : **Judge Tagliavini
Mr A Lewicki BSc(Hons) FRICS MBEng**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **19 May 2023**

DECISION

The tribunal's summary decision

- (1.) The tribunal determines the sum of £250 is to be paid by the second respondent Mohd. A. Karami M S AL-AMADI to the applicant by way of a rent repayment order for the offence of the control or management of an unlicensed property at 95 Pinnacle House, 4 Schooner Road, London E16 2RF and this sum is payable within 14 days of this decision being sent to the parties.
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The application

1. This is an application for a rent repayment order (RRO) pursuant to ss. 41(1) and (2) of the Housing and Planning Act 2016, alleging the control or management of an unlicensed house at 95 Pinnacle House, 4 Schooner Road, London E16 2RF ('the Property') by the first and second respondents pursuant to s.72(1) of the Housing Act 2004. The applicant seeks the sum of 4 months' rent totalling £10,486.68 plus the return of a holding deposit and one months rent deposit (neither within the jurisdiction of the tribunal).

The Hearing

3. The tribunal was provided with a bundle of 55 pages from the applicant; a bundle of 73 pages from the first respondent together with a Statement of Response of 53 pages; a bundle of 78 pages from the second respondent and a Statement in Response of 56 pages as well as a witness statement of 3 pages from Marwan Samaha on behalf of the second respondent who live abroad.
4. The applicant did not attend the hearing as it was said by her representative Mr Ejaz that Ms Patel did not think she had to attend the hearing, although no indication had been given by the tribunal she was not required to attend. Therefore, in her absence, the applicant was represented by Mr Faisal Ejaz, a former authorised occupier of the subject property and friend of the applicant. Mr Ejaz also sought to give evidence to the tribunal on the applicant's behalf as well as representing her interests.

The applicant's case

5. The applicant relied upon her documentary evidence provided to the tribunal which included a lease agreement made between Mohd. A. Karami M S AL-AMADI of C/O RE/MAX Central and Sejal Patel from

22 February 2022 for a twelve-month term at a rent of £2621.67 per month. Ms Patel included proof of rental payments made in February 2022; March 2022, April 2022 and May 2022. A letter dated 7 February 2023 from the London Borough of Haringey stated an application for licence for the subject Property was received on 22 June 2022 and issued on 29 September 2022 for a period of five years and was the first licence issued for the Property although licensing throughout the borough was introduced on 1 January 2013.

6. In a statement in response to the respondents' statements Ms Patel refused to address the issue of rent arrears raised by the respondents stating it was not relevant although also stated she did not owe any money to them. Ms Patel also stated the recordings relied upon by the respondents had been edited and were therefore not relevant.

The first respondent's case

7. It was asserted on behalf the first respondent, that it had never been the applicant's landlord but had only advertised the flat and was responsible for its letting. Rent was collected by Buzz Property Management Limited on behalf of the second respondent and paid to him. The management of the Property was carried out by the second respondent who is the landlord and owner of the Property and who utilised the services of NH Capital Limited for its management. Ms Su drew the tribunal's attention to a document headed DPS Custodial dealing with the protection of the landlord's deposit showing the landlord as Mohd. A. Karami M S AL-AMADI.
8. The first respondent also relied upon a Landlord Agency Agreement dated 29/11/2021 offering a Full Management Agreement and made between the landlord Mr Mohd. A Karim M S AL-AMADI and NH Capital Limited T/A RE/MAX Property Group in respect of 4 properties including the subject Property for which RE/MAX acted as the landlord's agent and provided a Full Management Service. However, this document stated:

The Landlord confirms that if the Property is subject to a Selective Licensing through their local authority pursuant to Section 79-100 of the Housing Act 2004, the Property is and has at all relevant times been licensed by the local authority and no further licenses are required to let the Property.... It is the Landlord's responsibility to check if the Property is subject to Selective Licensing by the local authority and to acquire and pay for the Licence.

9. The first respondent also relied upon tape recordings of conversations held with Mr Ejaz when he contacted by telephone the first respondent to make enquires or demands. The tribunal listened to two examples of these conversations from February 2023 (it first having been accepted

by Mr Ejaz that he was the caller). The first respondent asserted the applicant had early on in the tenancy, directed that all communications should be through Mr Ejaz; regularly failed to provide access for works to be carried out; failed to pay rent after the first four months of the tenancy and had accrued substantial arrears as well as allowing the electricity supply to be cut off due to her failure to pay the bills.

10. The first respondent asserted that it had lost significant sums due to the applicant's failure to provide access despite dates having been agreed and the contractors booked, who required payment in any event.

The second respondent's case

11. The second respondent was represented by Mr Marwan Samaha who also sought to give evidence to the tribunal and relied on a witness statement dated 6 March 2023. Mr Samaha told the tribunal the second respondent was the owner of the Property and RE/MAX had acted as his managing agent throughout the period of the applicant's tenancy.
12. Mr Samaha told the tribunal that payment of rent had stopped after four months due to an alleged leak in the Property. Mr Samaha told the tribunal Mr Ejaz had been refused as a tenant of the Property but was permitted to be an authorised occupier, The failure to apply for a selective licence had been an oversight as it was a new build acquired by the second respondent and rectified as soon as the landlord became aware. Further, before granting the licence an inspection was carried out by the local authority who did not make any conditions for the grant of the licence in the name of the second respondent and that the landlord had not been convicted of any relevant offence.
13. Mr Samaha submitted the second respondent should not be required to pay any amount by way of a rent repayment order due to the substantial rent arrears of £20,973.36 that had accrued, the service charges in the region of £8,000 the second respondent had to pay and the conduct of the applicant and her agent throughout the period of her tenancy.

The tribunal's decision and reasons

14. The tribunal finds the applicant has proved beyond all reasonable doubt the property was unlicensed during the period 22 February 2021 to 22 June 2022 and that an offence was committed by second respondent who had the control or management of the Property during this period.
15. The tribunal accepts that for all other purposes the first respondent had entered into an agreement with the second respondent to manage the

Property on his behalf, on the condition that all necessary (HMO) licences had been applied for by the landlord. The tribunal finds the first respondent was not and had never been the applicant's landlord and for the purpose of obtaining a licence had not had the management or control of the Property. However, the tribunal also finds the relations between the RE/MAX, Century 21 and Buzz Property Management is less than transparent in that these entities are run by the same personalities in differing combinations, which serves to confuse the relationships between them. However, the tribunal finds the first respondent has demonstrated that for licensing purposes the obligation was expressly placed upon and accepted by the second respondent only.

16. In considering the quantum of any rent repayment order the tribunal has regard to section 44(3) of the Housing and Planning Act 2016 which states:

(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.

17. The tribunal also has regard to the decision in *Acheampong v Roman* [2022] UKUT 239m (LC) and quantification the amount of a rent repayment order. The tribunal determines the maximum amount of a rent repayment is four months' rent totalling £10,486.68 (the holding deposit and deposit not being within the jurisdiction of the tribunal). The tribunal treats this as the maximum amount it can award there being no deductions to made for payments of universal credit.
18. The tribunal also considers the seriousness of the offence and although finds the second respondent has not established a defence of 'reasonable excuse', nevertheless finds the second respondent's offence was due to an oversight rather than a deliberate commission of an offence. The tribunal, however, finds the offence was of a limited

duration of approximately four months and is not in the circumstances the most serious offence of its kind.

19. In considering the conduct of the parties the tribunal finds there are no adverse allegations made by the applicant in respect of the conduct of the second respondent. The tribunal finds the applicant has not understood the relevance of conduct in this matter by her refusal to address the rent arrears or the offensive conduct of her agent, Mr Ejaz towards the first respondent, who she believed to be her landlord. The tribunal finds the conduct of the applicant has resulted in her occupation of the Property for a substantial period over which she accrued substantial arrears of over £20,000; refused access for repairs/works to be carried out and has authorised Mr Ejaz to act as her agent in the conduct of the tenancy.
20. In particular, the tribunal finds Mr Ejaz's conduct as an agent of the applicant to have been thoroughly unpleasant, threatening to employees of the first respondent with whom he made contact by telephone, by shouting at them, making threats and using foul language including telling the person to 'Shut the fuck up.' The tribunal notes the allegation made by the applicant that the audio recordings have been 'edited' but failed to explain in what way they had been altered in her statement, or to attend the hearing to give evidence about them. In any event, the tribunal finds the offensive language and aggression shown by Mr Ejaz to be unacceptable in any circumstances.
21. The tribunal considers the second respondent has suffered financial losses as a result of the applicant's conduct by way of lost rent, unpaid electricity bills while being required to pay significant service charges. The tribunal also takes into account the absence of any previous relevant convictions.
22. Therefore, in all the circumstances, the tribunal finds it appropriate to award the applicant only the nominal sum of £250 by way of a rent repayment order to reflect the commission of the offence payable by the second respondent only within 14 days of this decision being sent to the parties.

Name: Judge Tagliavini

Date: 19 May 2023

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).