



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

**Case reference** : **LON/00AP/HMG/2022/0022**

**Property** : **7 Crossfield Road London N17 6AY**

**Applicants** : **Ms L Parchizadeh, Mr G. Powell and Mr S Hendrie**

**Representative** : **Mr S Hendrie**

**Respondent** : **General Accommodation Estates Limited**

**Representative** : **Tyrer Roxburgh solicitors (Siva Sivapunniyam)**

**Type of application** : **Application for a Rent Repayment Order by tenants**  
Sections 40, 41, 42, 43 and 45 Housing and Planning Act 2016.

**Tribunal members** : **Judge Pittaway**  
**Ms M Krisko FRICS**

**Date of Hearing** : **27 July 2023**

**Date of decision** : **31 July 2023**

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**DECISION**

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## **Decisions of the tribunal**

1. **The Tribunal finds that the Respondent was the Applicants' immediate landlord.**
2. **The Tribunal makes a Rent Repayment Order in the sum of £4,750 against the Respondent.**
3. **The Tribunal orders the reimbursement of the application fee of £100 and the hearing fee of £200.**
4. **The reasons for the Tribunal decisions are given below.**

## **The background**

5. The tribunal received an application dated 26 May 2022 for a rent repayment order under section 41 of the Housing and Planning Act 2016 (“**the 2016 Act**”) in respect of 7 Crossfield Road London N17 6Ay (‘the **Property**’). It named the respondents as ‘Unknown landlord, George Heliotis (managing agent)’. The amount sought was for the period from 1 July 2020 to 30 June 2021 (the ‘relevant period’) in the sum of £9,500. The application stated that the Property should have had, but did not have, an additional HMO licence during the relevant period.
6. The application also requested the reimbursement of the application fee of £100 and the hearing fee of £200.
7. On 1 September 2022 the Tribunal issued Directions, which named General Accommodation Estates as the Respondent landlord.

## **The Hearing**

8. The hearing took place at 10 Alfred Place attended by Ms L Parchizadeh, Mr G Powell and Mr S Hendrie, Mr G Yiasoumi (director) and Mr G Heliotis of General Accommodation Estates Limited and Mr Hodgson of counsel.
9. The Tribunal had before it an applicants’ bundle received 20 January 2023 (122 pages), a respondent’s bundle received 2 June 2023 (40 pages), an applicants’ reply (16 pages) and a skeleton argument from Mr Hodgson (3 pages).
10. Mr Hendrie spoke for the Applicants at the Hearing and Mr Hodgson represented the Respondent.

11. The tribunal heard oral evidence from Mr Hendrie, Ms Parchizadeh, Mr Yiasoumi and Mr Heliotis and submissions from Mr Hogdson and Mr Hendrie.
12. Before the hearing started the Tribunal provided a copy of *Cabo v Dezotti* [2022] UKUT 240 (***Cabo***) to both parties and gave them the opportunity of considering this decision, particularly that part headed, 'Issue 3: Can a company with no proprietary interest be a landlord'.

### **The Property**

13. The Property is described in the application as a four bedroom terraced house.

### **Agreed matters**

14. The parties agreed that
  - That the relevant period was 1 July 2020 to 30 June 2021;
  - That during the relevant period an offence was committed under s72(1) of the Housing Act 2004 as the Property was one which since 27 May 2019 had required an additional HMO licence;
  - That the Applicants had paid rent during the relevant period as follows;
    - Ms Parchizadeh      £5,500
    - Mr Powell            £2,500
    - Mr Hendrie           £1,500

The amount sought by Ms Parchzadeh did not include any rent paid by her in February 2021.

### **Issues**

15. The issues before the tribunal to determine were
  - Whether General Accommodation Estates Limited was the correct Respondent for the purposes of the application.
  - If General Accommodation Estates Limited was the correct Respondent the quantum of any Rent Repayment Order, having regard to
    - the maximum amount of RRO that can be ordered under section 44(3) of the 2016 Act, and
    - any relevant conduct of either party, the landlord's financial circumstances, whether the landlord has any previous conviction of a relevant offence to which the Tribunal should have regard in exercising its discretion as to the amount of the RRO.

## **The tribunal's reasons**

16. The tribunal has had regard to the witness statement of Mr Heliotis in the bundle, the oral evidence that it heard, the submissions made in Mr Hodgson's skeleton arguments and at the hearing and the decision in *Rakusen v Jepson and others* (**'Rakusen'**) and *Cabo* and in reaching its decision. As appropriate, and where relevant to the tribunal's decision, these are referred to in the reasons for the tribunal's decision.
17. The relevant legal provisions are set out in the Appendix to this decision

## **Evidence and submissions**

### **Is General Accommodation Estates Limited the correct Respondent?**

18. Mr Hodgson submitted that it was a fact, known to the Applicants, that General Accommodation Estates Limited were acting as an agent and that the Landlord was someone else, referring the Tribunal to e mails in the bundle that had been sent to an individual identified as the freeholder's brother. He accepted that it was bad practice to have named General Accommodation Estates Limited as Landlord in the ASTs under which the Applicants had occupied the Property. Mr Hodgson submitted that there had been no intention to hide the identity of the landlord. Mr Hodgson distinguished the decision in *Cabo* on its facts. General Accommodation Estates Limited have no proprietary interest in the property and the rent received was paid on to the freeholder less its commission. He referred the Tribunal to paragraph 79 of *Cabo* in which it is stated that if an agent does not disclose on the face of an agreement that it is acting as an agent evidence is nevertheless admissible to demonstrate that a relationship of agent and principal existed between it and the real owner of the property. Mr Hodgson invited the Tribunal to look to the actual relationship between General Accommodation Estates Limited and Sofronias Sofroniou set out in the agreement headed 'Terms and Conditions of Assured Short Hold Tenancy' dated 5 December 2016, contained in the bundle.
19. Mr Hendrie submitted that all the ASTs that had been entered into by the occupants of the property had named General Accommodation Estates Limited as the Landlord and that all rent payments had been made to that company. The agreement of 5 December 2016 stated that the landlord's details should have been provided to them and they had never been given the contact details of Sofonias Sofroniou. It had been General Accommodation Estates Limited who had undertaken the works required to the Property. That was the only company that they had dealt with and they had viewed General Accommodation Estates Limited as their landlord.
20. On being questioned by the Tribunal Mr Hodgson confirmed that the Respondent had not attempted to revise the identity of the Respondent following the issue of the Directions of 1 September 2022.

## **Quantum of the RRO**

21. Mr Hodgson submitted that in fixing the amount of any RRO the Tribunal should have regard to the fact that failure to obtain an additional HMO licence was one of the less serious of the possible offences which result in an order for an RRO. The licence was applied for once the Respondent realised that one was required and it was granted. There was no suggestion that the landlord was not a fit and proper person and no hazards were referred to in the licence. Mr Hodgson submitted that the relationship between the tenants and General Accommodation Estates Limited had always been friendly and that any issues they raised had been dealt with promptly. General Accommodation Estates Limited had addressed the issue of mould when it had been raised and had agreed a reduction in rent. He submitted that they had acted properly.
22. When questioned by the Tribunal as to why General Accommodation Estates Limited had not made the HMO licence application until more than three years after it became a requirement for the Property the Tribunal heard evidence from Mr Yiasoumi that normally they expected to be notified by Haringey of the need for a licence and they had not been so notified in this case. He believed that this was because the notice may have been sent to the Property. Mr Yiasoumi also referred to the delays arising as a result of the pandemic
23. Mr Hendrie submitted that the Applicants were seeking repayment of the whole of the £9,500 applied for. General Accommodation Estates Limited should have appreciated sooner the need for the HMO licence. Mr Hendrie submitted that it took too long for General Accommodation Estates Limited to sort out the issue of the mould (three months) during which time two of the bedrooms at the house could not be occupied.
24. The Tribunal heard evidence from Ms Parchizadeh that the tenants had had a good relationship with Mr Heliotis but had been frustrated by the lack of progress over the mould.
25. The Applicants confirmed to the Tribunal that they were directly responsible for the payment of the utilities at the Property and the Respondent confirmed that it had never been convicted of a relevant offence.

## **Fees**

26. The Applicants sought the reimbursement of their fees and Mr Hodgson made no particular submission in this regard.

## **The tribunal's reasons**

## **Is General Accommodation Estates Limited the correct Respondent?**

27. Following the decision of the Supreme Court in *Rakusen* a Rent Repayment Order may only be made against a tenant's immediate landlord.
28. Paragraph 65 of *Cabo* states that, '*... a company (or other person) with no proprietary interest in land can grant a tenancy of that land and can be a landlord*'.
29. The Tribunal find that General Accommodation Estates Limited can be the Applicants' landlord even if it does not have a proprietary interest in the Property.
30. Paragraph 79 of *Cabo* states, '*If an agent executes a lease or agreement in its own name only, the agent will be personally liable. If in such a case the agent does not disclose on the face of the agreement that it is acting as an agent, evidence will nevertheless be admissible to demonstrate the relationship of agent and principal existed between it and the real owner of the property.*'
31. The Respondent's Statement of Reasons of 2 June 2023 stated that the Respondent was not the landlord, stating that General Accommodation Estates Limited was not named as such in the tenancy agreement. The Tribunal find this statement to be incorrect as General Accommodation Estates Limited is named as landlord in the ASTs in the bundle before the Tribunal. It is also named in the Prescribed Information under the Housing Act as being the Landlord.
32. At no time before 2 June 2023 did the Respondent indicate that it was not the Applicants' landlord. It had the opportunity to do so when it received the Applicant's application and after the Directions of 1 September 2022 specifically named it as the landlord but it did not do so.
33. In the circumstances the Tribunal find that the Respondent is the Applicants' immediate landlord and therefore the correct Respondent for the purposes of the application.

### **Quantum of the RRO**

34. The Tribunal find on the evidence before it that the relationship between General Accommodation Estates Limited and the Applicants was good. It notes that there are a number of persons who occupied the Property during the relevant period who have not joined in the application, which may suggest they were satisfied with General Accommodation Estates Limited's conduct. The only conduct issue appears to have been how quickly General Accommodation Estates Limited dealt with the mould. The Tribunal is mindful that this work was required at a time when the pandemic had made the speed at which work could be carried out slower than normal. The Tribunal also note that a further AST was entered into by Ms Parchizadeh after the mould had been an issue.

35. The Tribunal find that General Accommodation Estates Limited did not act as professionally as it should have done in naming itself as landlord (if this was a mistake) and advising on the need for/ obtaining an additional HMO licence.
36. The Tribunal heard no evidence on the financial circumstances of the Respondent.
37. Having regard to the seriousness of the offence and the conduct of the parties the Tribunal find that it is appropriate to order a Rent Repayment Order in the sum of four thousand seven hundred and fifty pounds, to be divided between the Applicants in the proportions of their original claims.

### **Fees**

38. The Tribunal finds it appropriate, in light of its decision to make an RRO, to reimburse the application and hearing fees, a total of £300.

**Name:** Judge Pittaway

**Date:** 31 July 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).

## Appendix of Relevant Legislation

### Housing and Planning Act 2016

#### 40 Introduction and key definitions

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord and 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 to 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



- (4) For the purposes of subsection (3), an offence under section 30(1) or 32(1) of the Housing Act 2004 is committed in relation to housing in England let by a landlord only if the improvement notice or prohibition order mentioned in that section was given in respect of a hazard on the premises let by the landlord (as opposed, for example, to common parts).

#### **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.
- (3) A local housing authority may apply for a rent repayment order only if –
- (a) the offence relates to housing in the authority’s area, and
- (b) the authority has complied with section 42.
- (4) In deciding whether to apply for a rent repayment order a local housing authority must have regard to any guidance given by the Secretary of State.

#### **43 Making of a 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 had been convicted).
- (2) A rent repayment order under this section may be made only on an application under section 41.

#### **44 Amount of order: tenants**

- (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.

<b><i>If the order is made on the ground that the landlord has committed</i></b>	<b><i>the amount must relate to rent paid by the tenant in respect of</i></b>
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.

