



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

Case Reference : **LON/00AM/HMF/2023/0061**

Property : **4 Osric Path, London N1 6PZ**

Applicants : **Nicola Summers
Jennifer Dowling
Abigail Spoor
Eleanor Morgan
Harriet Brown**

Representative : **Justice For Tenants**

Respondent : **Mohammed Shofiq Ali Shamsu**

Type of Application : **Application for a rent repayment order
by tenant**

Tribunal : **Judge Nicol
Mrs L Crane MCIEH**

**Date and Venue of
Hearing** : **30th August 2023
10 Alfred Place, London WC1E 7LR**

Date of Decision : **30th August 2023**

DECISION

- 1) The Respondent shall pay to the Applicants a Rent Repayment Order in the total amount of £28,600.**
- 2) The Respondents shall reimburse the Applicants their Tribunal fees of £300.**

The relevant legislative provisions are set out in an Appendix to this decision.

Reasons

1. The Applicants lived at the subject property at 4 Osric Path, London N1 6PZ, a 2-storey, 3-bedroom terraced house with shared kitchen and bathroom/WC facilities, as follows:
 - Nicola Summers in Room 1 from 5th September 2021 to 5th September 2022;
 - Jennifer Dowling in Room 2 from 4th September 2021 to 4th September 2022;
 - Abigail Spoor in Room 3 from 5th September 2021 to 28th March 2022;
 - Eleanor Morgan in Room 3 from 28th March to 18th July 2022;
 - Harriet Brown in Room 4 from 24th September 2021 to 5th September 2022.
2. The Applicants seek a rent repayment order (“RRO”) against the Respondent in accordance with the Housing and Planning Act 2016 (“the 2016 Act”).
3. On 11th July 2023, the Tribunal notified the Respondent as follows:
 - (a) Following the formal Notice sent to you on 20th June 2023 that required you to comply with the tribunal’s directions and provide your bundle of documents, by 7 July 2023, the Tribunal has received no response.
 - (b) In accordance with the warning given in that Notice, the Respondent is barred from further participation in these proceedings, and the Tribunal will go on to summarily determine all matters against you as from the date this Notice is sent to you.
4. The hearing of this matter was in person and took place on 30th August 2023. It was attended by 3 of the Applicants (Ms Summers, Ms Spoor and Ms Brown) and Mr Cameron Neilson from Justice for Tenants. The Respondent did not attend and was not represented.
5. The documents before the Tribunal consisted of the Applicant’s bundle of 512 pages and a short video tour of the house (with no sound).

The offence

6. The Tribunal may make a RRO when the landlord has committed one or more of a number of offences listed in section 40(3) of the 2016 Act. The Applicants alleged that the Respondent was guilty of having control of and managing an HMO (house in multiple occupation) which was required to be licensed but was not so licensed, contrary to section 72(1) of the Housing Act 2004 (“the 2004 Act”).
7. The Respondent is one of the two registered owners of the property and his name is on the assured shorthold tenancy granted to the Applicants

on 28th August 2021 as their landlord. Ms Dowling paid the rent to the Respondent on behalf of all the Applicants.

8. The property is located in the district of the London Borough of Hackney which has an Additional Licensing scheme in force from 1st October 2018. It covers all privately-rented HMOs in their district other than HMOs which were already required to be licensed under the mandatory statutory scheme.
9. An HMO is defined in section 254 of the 2004 Act. It is clear that the property satisfied that definition for the purposes of Hackney's additional licensing scheme throughout the period of the Applicants' occupation. Hackney confirmed by email dated 12th October 2022 that the property had never been licensed with them.
10. For these reasons, the Tribunal is satisfied so that it is sure that the Respondent committed the offence of having control of and managing an HMO which was required to be licensed but was not.

Rent Repayment Order

11. For the above reasons, the Tribunal is satisfied that it has the power under section 43(1) of the Housing and Planning Act 2016 to make a RRO on this application. The Tribunal has a discretion not to exercise that power but, as confirmed in *LB Newham v Harris* [2017] UKUT 264 (LC), it will be a very rare case where the Tribunal does so. This is not one of those very rare cases. The Tribunal cannot see any grounds for exercising their discretion not to make a RRO.
12. The RRO provisions were considered by the Upper Tribunal (Lands Chamber) in *Parker v Waller* [2012] UKUT 301 (LC). Amongst other matters, it was held that an RRO is a penal sum, not compensation. The law has changed since *Parker v Waller* and was considered in *Vadamalayan v Stewart* [2020] UKUT 0183 (LC) where Judge Cooke said:
 14. ... under the current statutory provisions the restriction of a rent repayment order to the landlord's profit is impossible to justify. The rent repayment order is no longer tempered by a requirement of reasonableness; and it is not possible to find in the current statute any support for limiting the rent repayment order to the landlord's profits.
 53. The provisions of the 2016 Act are rather more hard-edged than those of the 2004 Act. There is no longer a requirement of reasonableness and therefore, I suggest, less scope for the balancing of factors that was envisaged in *Parker v Waller*. The landlord has to repay the rent, subject to considerations of conduct and his financial circumstances. ...

13. In *Williams v Parmar* [2021] UKUT 0244 (LC) Fancourt J held that there was no presumption in favour of awarding the maximum amount of an RRO and said in his judgment:
 43. ... “Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for Local Authorities”, which came into force on 6 April 2017 ... is guidance as to whether a local housing authority should exercise its power to apply for an RRO, not guidance on the approach to the amount of RROs. Nevertheless, para 3.2 of that guidance identifies the factors that a local authority should take into account in deciding whether to seek an RRO as being the need to: punish offending landlords; deter the particular landlord from further offences; dissuade other landlords from breaching the law; and remove from landlords the financial benefit of offending.
 50. I reject the argument ... that the right approach is for a tribunal simply to consider what amount is reasonable in any given case. A tribunal should address specifically what proportion of the maximum amount of rent paid in the relevant period, or reduction from that amount, or a combination of both, is appropriate in all the circumstances, bearing in mind the purpose of the legislative provisions. A tribunal must have particular regard to the conduct of both parties (which includes the seriousness of the offence committed), the financial circumstances of the landlord and whether the landlord has at any time been convicted of a relevant offence. The tribunal should also take into account any other factors that appear to be relevant.
14. In *Acheampong v Roman* [2022] UKUT 239 (LC) the Upper Tribunal sought to build on what was said in *Williams v Parmar*. At paragraph 15, Judge Cooke stated,

it is an obvious inference both from the President’s general observations and from the outcome of the appeal that an order in the maximum possible amount would be made only in the most serious cases or where some other compelling and unusual factor justified it.
15. The current Tribunal finds it difficult to follow this reasoning. Although RROs are penal, rather than compensatory, they are not fines. Levels of fines for criminal offences are set relative to statutory maxima which define the limit of the due sanction and the fine for each offender is modulated on a spectrum of which that limit defines one end – effectively the maximum fine is reserved for the most serious cases. In this way, the courts ensure that there is consistency in the amount of any fine – each person convicted will receive a fine at around the same level as someone who committed a similar offence in similar circumstances.

16. However, an RRO is not a fixed amount. The maximum RRO is set by the rent the tenant happened to pay. It is possible for a landlord who has conducted themselves appallingly to pay less than a landlord who has conducted themselves perfectly (other than failing to obtain a licence) due to the levels of rent each happened to charge for their respective properties.
17. For example, in *Raza v Anwar* (375 Green Street) LON/00BB/HMB/2021/0008 the Tribunal held that, as well as having control of and managing an HMO which was required to be licensed but was not so licensed, the landlord was guilty of using violence to secure entry to a property contrary to section 6 of the Criminal Law Act 1977 and unlawful eviction and harassment contrary to section 1 of the Protection from Eviction Act 1977. Nevertheless, the RRO was for only £3,600 because the rent was so low at £300 per month. The Tribunal commented at paragraph 57 of their decision:

The maximum amount of the RRO is in no way commensurate with the seriousness of [the landlords'] behaviour. A larger penal sum would be justified, if the Tribunal had the power to make it.

18. In the Tribunal's opinion, there is nothing wrong with or inconsistent in the statutory regime for RROs if a particular RRO can't be increased due to a landlord's bad conduct. It is the result which inevitably follows from using the repayment of rent as the penalty rather than a fine. The maximum RRO, set by the amount of the rent, is a cap, not the maximum or other measure of the gravity of the parties' conduct. A landlord's good conduct or a tenant's bad conduct may lower the amount of the RRO and section 44(3) finds expression in that way. Further, the Tribunal cannot find anything in Fancourt J's judgment in *Williams v Parmar* to gainsay this approach.
19. Judge Cooke went on in *Acheampong* to provide guidance on how to calculate the RRO:
 20. The following approach will ensure consistency with the authorities:
 - a. Ascertain the whole of the rent for the relevant period;
 - b. Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access. It is for the landlord to supply evidence of these, but if precise figures are not available an experienced tribunal will be able to make an informed estimate.
 - c. Consider how serious this offence was, both compared to other types of offence in respect of which a rent repayment order may be made (and whose relative seriousness can be seen from the relevant maximum sentences on conviction) and compared to other examples of the same type of offence. What proportion of the rent (after deduction as above) is a fair reflection of the seriousness of this offence? That figure is then the starting point

(in the sense that that term is used in criminal sentencing); it is the default penalty in the absence of any other factors but it may be higher or lower in light of the final step:

- d. Consider whether any deduction from, or addition to, that figure should be made in the light of the other factors set out in section 44(4).
20. Although the Applicants occupied the property for the 12-month term of the tenancy, they did not pay one month due to the difficulties of contacting the Respondent. Therefore, the maximum possible amount for a RRO would be £28,600, equivalent to 11 months' rent.
 21. In relation to utilities, the Tribunal again finds it difficult to understand Judge Cooke. It is stated in *Woodfall: Landlord and Tenant* at paragraph 7.015 that, "At common law, the whole amount reserved as rent issues out of the realty and is distrainable as rent although the amount agreed to be paid may be an increased rent on account of the provision of furniture or services or the payment of rates by the landlord." In any event, in this case utilities were not included in the rent and so there can be no deduction in that respect.
 22. The next step is to consider the seriousness of the offence. Judge Cooke referred to the maximum fine for any relevant offences but more significant are the various matters referred to in this decision.
 23. It is important to understand why a failure to licence is so serious. The process of licensing effectively provides an audit of the safety and condition of the property and of the landlord's management arrangements, supported wherever and whenever possible by detailed inspections by council officers who are expert in such matters. Owners and occupiers are not normally expert and can't be expected to know how to identify or remedy relevant issues without expert help. It is not uncommon that landlords are surprised at how much a local authority requires them to do to bring a property up to the required standard and, in particular, object to matters being raised about which the occupiers have not complained. In the absence of comprehensive expert evidence or evidence that the local authority has inspected and is satisfied, a Tribunal will rarely, if ever, be able to assure itself that a property meets the relevant licensing standards.
 24. If a landlord does not apply for a licence, that audit process never happens. As a result, the landlord can save significant sums of money by not incurring various costs which may cover, amongst other matters:
 - (a) Consultants – surveyor, architect, building control, planning
 - (b) Licensing fees
 - (c) Fire risk assessment
 - (d) Smoke or heat alarm installation
 - (e) Works for repair or modification

- (f) Increased insurance premiums
 - (g) Increased lending costs
 - (h) Increased lettings and management costs.
25. The prospect of such savings is a powerful incentive not to get licensed. Not getting licensed means that important health and safety requirements may get missed, to the possible serious detriment of any occupiers. RROs must be set at a level which disincentivises the avoidance of licensing and disabuses landlords of the idea that it would save money.
 26. The Tribunal is also concerned that the Respondent's failure to participate in these proceedings suggests that he does not realise or understand the importance or significance of licensing and its enforcement.
 27. Taking into account all the circumstances, the Tribunal concluded that the Respondent's control and management of the property while it was unlicensed was a serious and deliberate default which warrants a proportionate sanction. Therefore, the Tribunal concluded that the amount of the RRO should be the full amount of £28,600.
 28. The Tribunal is required to consider whether any deductions should be made in accordance with section 44(4) of the 2016 Act. The Applicants complained about the Respondent's conduct in the following respects:
 - (a) The Respondent was frequently unreachable, even by his own agents, let alone any of the Applicants. Even when he did reply, it took a long time.
 - (b) None of the doors at the property were fire doors. Only one smoke detector was installed in the hallway. No other functioning smoke or carbon monoxide alarm was installed in the bedrooms or living room.
 - (c) One of the two toilets at the property was malfunctioning from the time the Applicants moved in until two weeks after they complained.
 - (d) The shower head stand was broken. The Respondent's response to the Applicants' complaint was that they could buy their own one.
 - (e) The downstairs toilet cistern leaked.
 - (f) There was a prominent mice infestation when the Applicants moved in. They were getting at food through broken kitchen cupboards. As well as the kitchen, the mice were spotted in two of the bedrooms. The Applicants tried to mitigate the infestation with traps and sealing food packages. The Respondent had put down poison, which indicates he was aware of the infestation, but the Applicants had to get Hackney Council to refresh it.
 - (g) There were sharp nails sticking up from the stair carpet. Two Applicants injured their feet. The Respondent's handyman tried to hammer them down, rather than remove them, and the Applicants were still getting scratched.
 - (h) The upstairs bathroom had cracked tiles and persistent mould.

- (i) There was a leak from the upstairs bathroom into the rooms below. The Respondent blamed the Applicants for allowing water to drip onto the bathroom floor.
 - (j) The downstairs bathroom door could not be closed. The light fitting was broken. Mould had been painted over.
 - (k) The freezer needed defrosting and one of the drawers had black mould.
 - (l) The property had not been cleaned or cleared after the previous tenants had left.
 - (m) The front door could not be opened from outside so that housemates had to let each other in.
 - (n) The front garden gate was off its hinges and was never repaired.
 - (o) There were exposed wires in several areas.
 - (p) The gate to the bin area was locked. The Respondent told the Applicants to use the bins belonging to the estate although they were not supposed to be for their use.
 - (q) Ms Dowling's deposit was protected around one month late.
 - (r) The Respondent failed to provide an electrical safety certificate, an energy performance certificate or the required How to Rent leaflet.
 - (s) The Applicants were invited to a hearing of a possession claim by the Respondent's mortgagees, although the Respondent managed to avoid a possession order.
29. In contrast, the Applicants paid their rent and complied with their obligations under their tenancy.
30. The Respondent had not provided any information in relation to his financial circumstances, even before he was debarred.
31. For these reasons, the Tribunal saw no basis for deducting anything from the amount of the RRO and awards the sum of £28,600.
32. The Applicant paid £300 in Tribunal fees. The Tribunal has the power to order the Respondents to reimburse them. The application has been entirely successful and, therefore, the Tribunal so orders.

Name: Judge Nicol

Date: 30th August 2023

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 Tribunal 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 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 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.

Appendix of relevant legislation

Housing Act 2004

Section 72 Offences in relation to licensing of HMOs

- (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.
- (2) A person commits an offence if—
 - (a) he is a person having control of or managing an HMO which is licensed under this Part,
 - (b) he knowingly permits another person to occupy the house, and
 - (c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.
- (3) A person commits an offence if—
 - (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and
 - (b) he fails to comply with any condition of the licence.
- (4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—
 - (a) a notification had been duly given in respect of the house under section 62(1), or
 - (b) an application for a licence had been duly made in respect of the house under section 63,and that notification or application was still effective (see subsection (8)).
- (5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse—
 - (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
 - (b) for permitting the person to occupy the house, or
 - (c) for failing to comply with the condition,as the case may be.
- (6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine.
- (7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).
- (7B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.

- (a) For the purposes of subsection (4) a notification or application is “effective” at a particular time if at that time it has not been withdrawn, and either–
 - (a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or
 - (b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.
- (b) The conditions are–
 - (a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of the appropriate tribunal) has not expired, or
 - (b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.
- (c) In subsection (9) “relevant decision” means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

Section 254 Meaning of “house in multiple occupation”

- (1) For the purposes of this Act a building or a part of a building is a “house in multiple occupation” if–
 - (a) it meets the conditions in subsection (2) (“the standard test”);
 - (b) it meets the conditions in subsection (3) (“the self-contained flat test”);
 - (c) it meets the conditions in subsection (4) (“the converted building test”);
 - (d) an HMO declaration is in force in respect of it under section 255; or
 - (e) it is a converted block of flats to which section 257 applies.
- (2) A building or a part of a building meets the standard test if–
 - (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
 - (b) the living accommodation is occupied by persons who do not form a single household (see section 258);
 - (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
 - (d) their occupation of the living accommodation constitutes the only use of that accommodation;
 - (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
 - (f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.
- (3) A part of a building meets the self-contained flat test if–
 - (a) it consists of a self-contained flat; and
 - (b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).
- (4) A building or a part of a building meets the converted building test if–
 - (a) it is a converted building;

- (b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);
 - (c) the living accommodation is occupied by persons who do not form a single household (see section 258);
 - (d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
 - (e) their occupation of the living accommodation constitutes the only use of that accommodation; and
 - (f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.
- (5) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.
- (6) The appropriate national authority may by regulations–
- (a) make such amendments of this section and sections 255 to 259 as the authority considers appropriate with a view to securing that any building or part of a building of a description specified in the regulations is or is not to be a house in multiple occupation for any specified purposes of this Act;
 - (b) provide for such amendments to have effect also for the purposes of definitions in other enactments that operate by reference to this Act;
 - (c) make such consequential amendments of any provision of this Act, or any other enactment, as the authority considers appropriate.
- (7) Regulations under subsection (6) may frame any description by reference to any matters or circumstances whatever.
- (8) In this section–
- “basic amenities” means–
- (a) a toilet,
 - (b) personal washing facilities, or
 - (c) cooking facilities;
- “converted building” means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed;
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));
- “self-contained flat” means a separate set of premises (whether or not on the same floor)–
- (a) which forms part of a building;
 - (b) either the whole or a material part of which lies above or below some other part of the building; and
 - (c) in which all three basic amenities are available for the exclusive use of its occupants.

Housing and Planning Act 2016

Chapter 4 RENT REPAYMENT ORDERS

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.

Act	section	general description of offence
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).

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.
- (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.

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.
- (3) The amount of a rent repayment order under this section is to be determined in accordance with—
- (a) section 44 (where the application is made by a tenant);
 - (b) section 45 (where the application is made by a local housing authority);
 - (c) section 46 (in certain cases where the landlord has been convicted etc).

Section 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.

If the order is made on the ground that the landlord has committed ***the amount must relate to rent paid by the tenant in respect of***

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.