



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

Case Reference : **MAN/00BR/HMB/2022/0003**

Property : **72 Kilcoby Avenue,
Manchester M27 8AE**

Applicant : **Ms Blanka Bumbakovic**

Respondent : **Ms Gergana Tacheva**

Type of Application : **Housing and Planning Act 2016 –
Section 41(1)**

Tribunal Members : **Tribunal Judge C Wood
Tribunal Member I James**

Date of Decision : **25 August 2023**

DECISION

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Decision

1. The Tribunal orders the Respondent to pay £1900 by way of rent repayment order to the Applicant.
2. The Tribunal orders the Respondent to pay to the Applicant the application and hearing fees totalling £300.

Background

- 3.1 By an application dated 17 August 2022, (“the Application”), the Applicant applied to the Tribunal for a rent repayment order pursuant to section 41 of the Housing and Planning Act 2016, (“the 2016 Act”).
- 3.2 Pursuant to the Directions dated 28 February 2023, both parties made written submissions in advance of the hearing which was scheduled for Thursday 29 June 2023 at 10:30.
- 3.3 Both of the parties attended the hearing. The Respondent, Ms Tacheva, was assisted at the hearing by an interpreter, Ms M Spiridonova.

The Law

4. The provisions of the 2016 Act, so far as relevant, are as follows –
 - (1) 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 ...
 - (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
2	Protection from Eviction Act 1977	Section 1(2), (3) or (3A)	Eviction or harassment of occupiers
5	Housing Act 2004	Section 72(1)	Control or management of unlicensed HMO

(2) Section 41 provides –

- (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) Section 43 provides -

- (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); ...

(4) Section 44 provides-

- (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.
- 5. Section 1(3) of the Protection from Eviction Act 1977, (“the 1977 Act”), provides as follows-
 - (3) If any person with intent to cause the residential occupier of any premises-
 - (a) to give up the occupation of the premises or any part thereof
 - (b)

does acts likely to interfere with the peace or comfort of the residential occupier....he shall be guilty of an offence.
- 6. Section 72(1) of the Housing Act 2004, (“the 2004 Act”), provides as follows:
 - (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...but is not so licensed.
 - (2) ...
 - (3) ...
 - (4) ...
 - (5) In proceedings against a person for an offence under subsection (1)...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)...

The Hearing

The Applicant’s Submissions

- 7. As set out in the Application, the Applicant seeks a rent repayment order based on a number of grounds including:
 - (1) various allegations of discrimination, harassment and/or anti-social behaviour by the Respondent and other occupants of the Property which ultimately led to her leaving the Property; and,

- (2) that the Property was an unlicensed HMO throughout the period of the Applicant's occupation.
8. The Applicant's oral submissions are summarised as follows:
- (1) the Applicant explained the circumstances leading up to her moving into a ground floor room at the Property on 8 February 2022;
 - (2) the accommodation at the Property comprised: Ground Floor: 1 bedroom, communal kitchen and toilet; 1st Floor: 1 bedroom with ensuite bathroom and communal living room; 2nd Floor: 3 bedrooms and communal bathroom;
 - (3) when the Applicant moved into the Property, 2 other tenants, Mr Yankov and Mr Hristo, occupied separate rooms on the 2nd floor; the Respondent occupied a room, with ensuite bathroom, on the 1st floor;
 - (4) in May 2022, a further tenant moved into a bedroom on the 2nd floor;
 - (5) shared facilities included the bathroom on the 2nd floor, the kitchen and the living room;
 - (6) two of the tenants/occupants worked away during the week returning to the Property at weekends;
 - (7) the Applicant claims that there had been an expectation on her throughout her period of occupation that she would undertake cleaning duties at the Property not expected of the other tenants/occupants;
 - (8) following an incident on the weekend of 13/14 April 2022 which caused the Applicant distress/concerns for her personal safety, she gave notice to the Respondent to expire on 9 June 2022;
 - (9) the Applicant claims that the Respondent insisted that she vacate the Property on 1 June 2022 including a threat to change the locks if she did not do so;
 - (10) the Applicant claims that she agreed to leave on 1 June 2022 on condition that the Respondent returned in full her deposit and the rent for the period 1- 8 June 2022 (a total of £650) which she needed to rent alternative accommodation. In response, the Applicant claims that Respondent made return of the deposit/rent conditional on the Applicant cleaning all of the communal areas at the Property as well as her room;
 - (11) during the notice period, the Applicant claims that the Respondent advertised the Applicant's room and the Applicant facilitated viewings;
 - (12) the Respondent has deducted £250 from the money owed to the Applicant because of concerns about the cleanliness of the fridge and mould in the bathroom;

- (13) the Applicant claims that the Property was an HMO requiring a licence and the Respondent must have misled the local authority into believing that it was a family home/did not meet the HMO requirements.

The Respondent's Submissions

9. The Respondent's oral submissions are summarized as follows:
- (1) the Respondent denies that a 4th room was let at the Property from May 2022;
 - (2) the Respondent suggests that the Applicant exaggerated the nature/seriousness of the "incident" on 13/14 April or that it had anything to do with the Applicant's decision to leave the Property;
 - (3) the Respondent claims that there had been a problem from the outset with the Applicant's clients coming to the Property which had caused tension between them; this was exacerbated when, in May 2022, Mr Yankov temporarily left the Property to visit relatives in Bulgaria, which meant that from 3 or 4 May until the Applicant left, there were only the two of them living at the Property during the week;
 - (4) the Respondent disputes the Applicant's claim that she moved out on 1 June 2022 and refers to a text message dated 17 May 2022 from the Applicant (over a month after the alleged incident in April) in which she stated that she would be leaving on 8 June 2022; the Respondent believes that she actually moved out on 7 June 2022;
 - (5) the Respondent had returned the deposit of £400 to the Applicant but she had deducted £250 from the rent for cleaning costs;
 - (6) the Respondent insists that it was the Applicant's decision to move; the Respondent agreed that she could stay until 8 June 2022;
 - (7) with regard to the Property, the Respondent states as follows:
 - (a) the Property belongs to her son;
 - (b) the Respondent lives there but is not responsible for organizing the occupation of rooms;
 - (c) Mr Hristo is her son's friend, and Mr Yordon is her boyfriend;
 - (d) the letting to the Applicant was arranged through a mutual friend who lets out rooms but who did not have any vacancies at the time the Applicant was looking for accommodation;
 - (e) no-one has lived in the Applicant's room since she left; there were no viewings during her period of notice, as the Applicant claimed;
 - (f) since June 2022, only the Respondent and her boyfriend have been living at the Property.

The Applicant's Responses

10. The Applicant's responses to the Respondent's submissions are summarized as follows:
 - (1) the Respondent is continuing to rent out rooms as at today's date;
 - (2) a Mr. Lionidas, a Lithuanian, moved into her room when she moved out; the Applicant saw him pay an amount of money for rent and the deposit to the Respondent;
 - (3) the Applicant moved out on 1 June 2022. She considered that she was evicted on that date because of the threat to change the locks and was also blackmailed into moving at that date in order to receive the return of her deposit/rent. There was never an opportunity to stay until 8 June 2022 as claimed by the Respondent;
 - (4) the Respondent refused to provide her with a tenancy agreement or the landlord's contact details. Further, her deposit was not protected as required;
 - (5) the Respondent deducted £250 from the amount due to the Applicant for the cost of cleaning the whole house.

Mr. Yankov's evidence

11. Mr. Yankov attended the hearing as the Respondent's witness. The Tribunal received no satisfactory response to its enquiry of the Respondent why no witness statement from Mr Yankov had been filed in advance of the hearing but determined that it was consistent with the overriding objective to allow him to give oral evidence in response to questions from the Tribunal and the Applicant. Mr Yankov made his submissions through the interpreter, Ms Spiridonova.
12. Mr Yankov's responses to the Tribunal's questions are summarized as follows:
 - (1) he moved into the Property in February 2022;
 - (2) he knew about the room in the Property because he is a family friend of the Respondent's son/the Respondent;
 - (3) he did not pay rent or a deposit and did not have a tenancy agreement because he was living there as a family friend;
 - (4) he contributed towards the cost of the utilities but was unable to recall with any certainty how much that contribution was but thought about £150-200 per month;
 - (5) he lived in the Property from February – May 2022, when he returned to Bulgaria for family reasons, and then returned to the Property in October 2022 and has lived there since;

- (6) he did not know any details of the Applicant's occupation of the Property or of any other of the occupants;
 - (7) he did not know of anyone living in the Applicant's room after she left but he was absent from the house from May – October 2022;
 - (8) he considered his purpose in giving evidence was to act as a "character witness" for the Respondent in order to support and help his friend and denied that he had been told by the Respondent what she wanted him to say to the Tribunal;
 - (9) he knows that the Applicant has made a claim against the Respondent but he does not know to what the claim relates.
13. Mr. Yankov's response to the Applicant's questions are summarized as follows:
- (1) he acknowledged that, when contacted by the Applicant and given an opportunity to join in the Application, he had initially suggested that he would give it consideration but had subsequently decided that he did not want to become involved;
 - (2) he does not recall a conversation with the Applicant in which they discussed each paying a similar amount in rent.

The Applicant's Questions of the Respondent

14. The Respondent's responses to the Applicant's questions are summarized as follows:
- (1) the Property is not an HMO because:
 - (a) it does not belong to the Respondent/is not in her name. In this respect, the Respondent referred to the Letter of Intent in her written submissions;
 - (b) the local authority came to check if it was an HMO on 14/15 June 2022 and was satisfied that Property was not being rented out;
 - (c) the Respondent accepts that she had posted an advert on Facebook on 18 June 2023 offering 3 rooms to rent in the Property;
 - (d) the Respondent does not feel any obligation to provide any financial information relating to the Property and/or her or her son's financial circumstances.

Conduct of the Landlord and Tenant

15. With regard to the Landlord's conduct:
- (1) the Applicant refers to the Respondent as having anger management issues eg smashing cups, doors, screaming, as bullying her, as expecting her to clean up after the other occupants of the Property, as failing to afford her the proper rights and respect that a tenant should expect/is

entitled to, as permitting anti-social behaviour in the Property and being guilty of racism towards her, all of which had a significant impact upon the Applicant's mental health;

- (2) further, the circumstances of her leaving the Property caused her very real problems, financial and otherwise, in securing alternative accommodation; and,
- (3) the delay between the incident in April and notifying the Respondent of her intention to move reflected her fear of change.

16. With regard to the Tenant's conduct:

- (1) the Respondent states that there were no problems in the Property until the Applicant came to live there. Initially she joined in socially but there were ongoing issues which caused friction, some of which may have been attributable to an issue with alcohol;
- (2) whilst the Respondent accepted that the Applicant's clients would visit the Property, the expectation was that they would visit her room only and not other rooms in the Property which had become the Applicant's practice;
- (3) the Respondent confirmed that there were no formal arrangements for cleaning the Property;
- (4) the Respondent had insisted on the Applicant leaving on 8 June as the Respondent was going away on 9 June and was unwilling to leave the Applicant alone in the Property;
- (5) the Respondent confirmed that she had repaid the Applicant's deposit but she had to employ a cleaner to clean the Applicant's room and the communal areas of the Property at a cost of £202.50. At that time, only the Respondent and the Applicant were living in the Property.

Financial Circumstances of the Landlord

17. The Respondent made the following submissions regarding her/her son's financial circumstances but declined to provide any details:

- (1) she works as a delivery driver with no fixed income; her son works in the construction industry and his income is also difficult to predict;
- (2) the Respondent acknowledges that in 2022 she had published a similar Facebook post to the 18 June 2023 Facebook post. Whilst acknowledging that the post refers expressly to "rent", the Respondent states that she had only received rent from the Applicant.

Tribunal's Determinations

Who is the Applicant's Landlord

18. Although this was not a point expressly raised by the parties, the Tribunal considers it appropriate to set out its reasons why it considers that the Respondent was the Applicant's landlord and therefore the appropriate respondent to the Application, as follows:
- (1) the Tribunal notes the evidence before it that the Property is owned by the Respondent's son and partner. Ownership by a 3rd party does not preclude the Respondent from being the Applicant's landlord and the Tribunal determines that it does not do so in this case;
 - (2) the Tribunal is satisfied that by reason of the Respondent's involvement in renting the room to the Applicant, in accepting payments from her in the form of rent and a rent deposit, and her involvement in the Applicant's departure from the Property, the Respondent was the Applicant's landlord.

Determination whether to make a rent repayment order

19. In determining whether to make a rent repayment order, the Tribunal must be satisfied, beyond reasonable doubt, that the landlord has committed a relevant offence. In this case, there were two possible offences raised in the Application:
- (1) the unlawful eviction of the Applicant from the Property under section 1(3) of the 1977 Act; and,
 - (2) a person being in control or managing an HMO which is required to be licensed, but is not so licensed, without reasonable excuse under section 72(1) of the 2004 Act.
20. For the purposes of this Decision, the Tribunal accepts the Applicant's evidence that she left the Property on 1 June 2022 and that she had paid rent for the period up to 7 June 2022.

Unlawful eviction – section 1(3) of the 1977 Act

21. Having regard to the parties' written and oral submissions, the Tribunal is not satisfied, beyond reasonable doubt, that the Respondent has committed an offence under section 1(3) of the 1977 Act for the following reasons:
- (1) whilst the Tribunal accepts that there may have been "acts likely to interfere with the peace or comfort" of the Applicant, the Tribunal is not satisfied that these constituted evidence of any intent on the Respondent's part to cause the Applicant to give up her occupation of the Property. Rather, the Tribunal considered that it was evidence of a mutual breakdown in the relationship between the parties which it appears may have resulted in mutual acts of micro-aggression between the parties.

There is no evidence that the Respondent was involved in the incident in April, which it appears may have crystallised the Applicant's decision to leave the Property.

Control or management of an unlicensed HMO – section 72 of the 2004 Act

Is the Property an HMO?

22. The Tribunal is satisfied that the Property satisfied the “standard test” of an HMO as set out in s254(2) of the 2004 Act during the period of the Applicant's occupation. In particular the Tribunal notes:
- (1) during the period 8 February 2022 to an unspecified date in March 2022, there were a minimum of 3 people, (the Applicant, the Respondent and Mr Yankov) and a maximum of 4 people (the former together with Mr Hristo) occupying the Property as their main residence, who constituted two or more households;
 - (2) during the period from an unspecified date in March 2022 to 1 June 2022, there were a minimum of 3 people and a maximum of 5 people, (the Applicant, the Respondent and Mr Dani/Yordon, Mr Yankov and Mr Hristo) occupying the Property as their main residence, who constituted two or more households;
 - (3) all of the occupants shared basic cooking and bathing facilities;
 - (4) as confirmed both by the Respondent and Mr. Yankov in evidence to the Tribunal, Mr Yankov's absence from the Property from May to in or about August 2022 was temporary such that the Tribunal concludes that the Property is to be considered as his main residence notwithstanding such period of absence;
 - (5) further, the Tribunal considers that, based on the parties' evidence, it is correct to consider the Property to be the main residence of Mr Hristo; and,
 - (6) throughout the relevant period, rent was payable by, at least, the Applicant for her occupation of the Property.

Was the Property required to be licensed?

23. Salford City Council requires anyone who owns a 3 or 4 person small HMO in Salford to apply for a licence under its Additional HMO Licensing regime.
24. The Tribunal is satisfied that, having regard to the information set out in paragraph 22 above, the property was a 3 or 4 person small HMO required to be licensed under the Additional HMO licensing regime.

Is the Respondent “a person having control of or managing” of an unlicensed HMO?

25. Section 263 of the 2004 Act sets out the definitions of “ person having control”, (s263(1)) and “person managing”, (s263(2)), summarised as follows:

- (1) a “person managing”, means, in relation to the Property, an owner or lessee.

The Tribunal accepts the Respondent’s evidence that she is not an owner or lessee of the Property and is not therefore to be regarded as a “person managing” the Property, for this purpose;

- (2) a “person having control” means, in relation to the Property, “...the person who receives the rack-rent...(whether on his own account or as agent or trustee of another person)...”

The Tribunal refers to the evidence of rent payments made by the Applicant to the Respondent.

26. The Tribunal is therefore satisfied that the Respondent was “a person having control” of an HMO which was required to be licensed.

Reasonable excuse – s72(5) of the 2004 Act

27. The Respondent made no specific reference to any “reasonable excuse” for her failure to obtain an HMO licence for the Property. The Tribunal notes, however, that the Respondent did refer to a visit from the local authority on 14 or 15 June 2022 to check if the Property was an HMO and their being satisfied that it was not being rented out.

28. As the local authority’s visit post-dates the period of the Applicant’s occupation its relevance to the Application is limited.

29. The Tribunal, however, notes the following:

- (1) it appears that, as at 14/15 June 2022, a minimum of 3 people continued to regard the Property as their main residence, namely, the Respondent, Mr Hristo and Mr Yankov;

- (2) further the Tribunal prefers the Applicant’s evidence to that of the Respondent and Mr Yankov that, following her departure from the Property, her room was re-let. It is reasonable to assume that person was still in occupation of a room at the Property as at 14/15 June 2022, meaning that there would be a minimum of 4 people in occupation of the Property;

- (3) again the Tribunal considers that it is reasonable to assume that the person to whom the Applicant’s room was re-let was paying rent to the Respondent. Further, the Tribunal places little reliance on Mr Yankov’s evidence that he was permitted to live rent-free at the Property;

- (4) the Respondent acknowledged that she had posted a similar Facebook post in June 2022 to that posted in June 2023 advertising rooms to let in the Property and expressly referring to rent;
 - (5) having regard to all of the above, the Tribunal can find no credible reason why the local authority would have told the Respondent that it was satisfied that the Property was not being rented out other than a failure on the part of the Respondent to disclose all relevant information to the local authority.
30. The Tribunal therefore determines that there is no evidence before it of any circumstances providing the Respondent with a “reasonable excuse” for her failure to obtain an HMO licence for the Property.

Commission of an offence

31. The Tribunal is therefore satisfied, beyond reasonable doubt, that the Respondent, as a person having control of the Property, has committed an offence under s72(1) of the 2004 Act by the failure to obtain an HMO licence for the Property, during the period from 8 February – 8 June 2022.
32. The Tribunal notes that the offence was committed in the period of 12 months ending with the day on which the Application was made on 17 August 2022.
33. The Tribunal therefore determines to make a rent repayment order.

Amount of the rent repayment order

34. Guidance on how the Tribunal should approach quantification of the amount of a rent repayment order has been provided by the Upper Tribunal in *Williams v Parmar* [2021] UKUT 244 (LC) and, more recently, in *Acheampong v Roman* [2022] UKUT 239.
35. In *Williams v Parmar*, the Chamber President said that when quantifying the amount of a rent repayment order:

“A tribunal should address specifically what proportion of the maximum amount of the 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.”
36. In *Acheampong v Roamn*, Judge Cook said as follows:

“ *Williams v Paramar* did not say in so many words that the maximum amount will be ordered only when the offence is the most serious of its kind that could be imagined; but 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 of cases or where

some other compelling and unusual factor justified it. It is beyond question that the seriousness of the offence is a relevant factor – as one would expect from the express statutory provision that the conduct of the landlord is to be taken into consideration. If the tribunal takes as a starting point the proposition that the order will be for the maximum amount unless the section 44(4) factors indicate that a deduction can be made, the FTT will be unable to adjust for the seriousness of the offence (because the commission of an offence is bad conduct and cannot justify a deduction). It will in effect have fettered its discretion. Instead the FTT must look at the conduct of the parties, good and bad, very bad and less bad, and arrive at an order for repayment of an appropriate proportion of the rent.”

37. She then said that the following approach will ensure consistency with previous legal 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).”
38. Those two decisions are binding on the Tribunal and are borne in mind when calculating the amount of the rent repayment order to be made in this case. In respect of the s72(1) licensing offence committed by the Respondent, the amount of a rent repayment order the Tribunal can award is limited to the amount of rent paid during a period “not exceeding 12 months, during which the landlord was committing the offence”. In this case, the relevant period is the period from 8 February – 8 June 2022.
39. The parties confirmed in their evidence that the rent was £500 per month. The Applicant has provided evidence of 4 bank transfers of £500 covering the period from 8 February – 8 June 2022, a total amount of £2000.
40. The Tribunal notes that the Applicant claims to have also made payment of a deposit of £500. The Tribunal has no jurisdiction in the context of the Application to make any determination regarding any right of the Applicant to

the return, in full or otherwise, of the deposit, although the Applicant may have recourse to other legal remedies in this respect.

41. The 2023 Facebook post shown to the Tribunal referred to the rent “including all bills” and the Respondent confirmed having made a similar post in June 2022. In the absence of any further evidence, the Tribunal determines that the rent was intended to include an amount in respect of utility bills.
42. The Respondent declined the opportunity to produce evidence of the cost of the utilities during the relevant period. Mr Yankov referred to possibly paying £150-200 per month as his contribution towards the utility costs. The Tribunal placed no reliance on Mr Yankov’s evidence in this respect.
43. Based on their own knowledge and experience, the Tribunal considered that a reasonable deduction for utilities was £25 per month. The total amount to be regarded as paid in respect of rent during the relevant period is therefore £1900.
44. The Tribunal must now consider the seriousness of the offence. The emphasis in the HMO licensing regime is to improve housing standards for vulnerable people who often occupy properties that were not built for multiple occupation, and where the risk of overcrowding and fire can be greater than with other types of accommodation. The failure to obtain a licence means that there was no opportunity for the local authority to inspect the Property and, for example, to impose conditions regarding the number of occupants, to ensure that fire safety measures have been taken etc.
45. As such the Tribunal considers that it is appropriate to consider that the seriousness of the offence warrants the making of a rent repayment order of 90% of the rent paid for the relevant period, subject to the remaining s44(4) factors, which are:
 - (1) the conduct of the landlord and the tenant;
 - (2) the financial circumstances of the landlord; and,
 - (3) whether the landlord has ever been convicted of another relevant offence.

Conduct of the Respondent

46. The Tribunal determines that there is conduct on the part of the Respondent which is relevant to their quantification of the RRO, as follows:
 - (1) the Tribunal considers that the Respondent’s failure to obtain a licence was not an innocent mistake on her part but as part of a deliberate course of conduct on her part to mislead the local authority as to the nature of the Property;
 - (2) the Tribunal did not find either the Respondent or her witness, Mr Yankov, compelling witnesses at the hearing. In particular, there were several examples of the Respondent changing her evidence in the light of

other evidence presented to her, most notably, the Facebook post of June 2023;

- (3) the evidence before the Tribunal of a cavalier attitude to her responsibilities as landlord/a person having control of the Property including, without limitation, her failure to register the Applicant's deposit in a statutory deposit scheme, to provide the Applicant with a tenancy agreement and details of the landlord or to organise adequate cleaning arrangements in respect of the communal areas at the Property;
- (4) the deduction of £250 from the monies owed to the Applicant on her vacation of the Property. In her evidence to the Tribunal, the Respondent provided no explanation why this amount had been deducted when the total invoice amount was only £202.50, or why the Applicant should bear the full cost of cleaning the communal areas and the cost of cleaning the Applicant's room.

Conduct of the Applicant

47. The Tribunal determines that there is no conduct on the part of the Applicant which is relevant to their quantification of the RRO.

Conviction of relevant offence

48. There is no evidence before the Tribunal of the Respondent having been convicted of a relevant offence, and it was therefore not a matter for its consideration.

Financial circumstances of the Respondent/landlord

49. The Tribunal notes that the Respondent did not provide any written or oral submissions regarding relevant financial circumstances, save for a limited disclosure as to the nature of her and her son's present employment.

Determination of the amount of the rent repayment order

50. Taking all these matters into account, the Tribunal determines that the appropriate order in this case is for repayment of 100% of the rent paid less an amount of £100 for estimated utility costs, and the Tribunal therefore makes a RRO in the sum of £1900.
51. Further, pursuant to Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal orders the Respondent to reimburse the Applicant the sum of £300 for the application and hearing fees.

C Wood
Tribunal Judge
25 August 2023