



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

Case reference : **LON/00BG/HMF/2023/0141.**

Property : **11 Kiln Court, 18 Newell Street,
London E14 7JP.**

Applicants : **(1) Anton Angelov
(2) Peter Brsel
(3) Veronika Balazova
(4) Miroslava Petraniova
(5) LaKeisha Blanchard**

Representative : **Anton Angelov.**

Respondent : **Salim Aklil.**

Type of application : **Application for a rent repayment
order by tenant**
Sections 40, 41, 43, & 44 of the Housing
and Planning Act 2016

Tribunal : **Judge Timothy Cowen
Mr Appollo Fonka FCIEH CenvH**

Date of Hearing : **23 November 2023.**

Date of Decision : **24 November 2023**

ORDER

The Tribunal orders that:

The Applicants' application is dismissed.

REASONS FOR ORDER

The Property

1. The Property is a 5 bedroom flat.

The Application

2. Section 41 of the Housing and Planning Act 2016 allows tenants to apply to this Tribunal for a rent repayment order (“RRO”) against a person who has committed a relevant offence. The relevant offences are listed in section 40.
3. The Applicants’ application is dated 9 June 2023. It is based on an allegation that the Respondent has committed the offence of managing or having control of an unlicensed house in multiple occupation (“HMO”). That is an offence under section 72(1) of the Housing Act 2004 to which Chapter 4 of the Housing and Planning Act 2016 applies, pursuant to section 40(3) of that Act.
4. The application alleges that
 - 4.1. the first three Applicants were tenants at the Property paying rent from 20 April 2022 to 20 April 2023
 - 4.2. the other two Applicants were tenants of the Property paying rent from August 2022 to April 2023
 - 4.3. the Applicants were therefore tenants at the Property during the 12 months leading up to the issue of the application.
 - 4.4. The Applicants shared the property but did not constitute a single household within the meaning of the 2004 Act and during the relevant period the Property was an HMO which required to be licensed.
 - 4.5. The Property was not licensed during that period.
 - 4.6. The Respondent had control and/or was managing the Property during that period.
5. The claim is for the total sum of **£33,270**, being the total rent paid by the Applicants for the relevant 12 month period.
6. The Applicants also allege a number of elements of alleged bad conduct on the part of the Respondent including disrepair and failure to comply with rent deposit regulations and failure to return deposits, amongst other things. These matters of conduct are relied upon in connection with the quantum of any rent repayment order.

The Hearing

7. The matter was heard at a face-to-face oral hearing. All of the Applicants attended. The First Applicant represented the Applicants and some of the other Applicants gave evidence when appropriate.
8. We received a bundle of documents from the Applicants which we had the opportunity to read before the hearing.
9. The Respondent has played no part in these proceedings and has not complied with any of the directions. The Tribunal made a debarring order on 21 November 2023 on the Applicants' application to bar the Respondent from participating in the hearing.
10. In the end, the Respondent did not attend the hearing in any event.
11. In the order of 21 November 2023, the Tribunal also raised an issue for the Applicants to address at the hearing. The issue concerned whether the Respondent had been correctly identified as a person against whom the Tribunal could make a RRO.
12. We decided at the hearing to consider that first as a distinct issue, because if the Respondent was not someone against whom we could make a RRO, then it would be unnecessary to require the Applicants to prove any of the other issues.
13. We informed the Applicants of our substantive decision orally at the hearing with a brief summary of our reasons. We also informed them that the full reasons would be set out in this written decision to be sent to them later.

The Respondent: Mr Salim Aklil

14. In the application form, the Respondent is described as follows:

“Our landlord is Salim Aklil, who represents the Skylar Trading Services LTD and Skylar Renting Services LTD”
15. This statement alerted the Tribunal to the possibility that any alleged offence may have been committed by one or more companies rather than by the person described as representing the companies.
16. The next step is to consider the tenancy agreements. The Applicants rely on a number of agreements. Each of them is labelled as “Licence to Occupy”, the parties are listed as “licensor” and “licensee” and the money payable is described as “licence fee”. We have in mind the dictum in *Street v Mountford* [1985] AC 809 that one should look to the substance rather than the labels. Therefore it may be that these agreements create tenancies

rather than licences. For reasons which will be apparent, it will not be necessary to resolve that issue here. For the purposes of considering the position of the named Respondent, we shall assume in the Applicants' favour that the agreements are all tenancy agreements and we shall refer to them as such.

17. We have summarised the relevant information in each of the tenancy agreements in the following table:

Date	Landlord	Landlord's Signature	Tenant(s)	Term	Monthly Rent (£)
19.04.22	Urban Base Properties	Salim Aklil	Anton Angelov & Peter Brsel	20.04.22-19.10.22	1,153.84
19.04.22	Urban Base Properties	Salim Aklil	Veronika Balazova	21.04.22-20.10.22	600.00
03.08.22	Skylar Trading Services Ltd	Salim Aklil	LaKeisha Blanchard	03.08.22-02.02.23	825.00
19.08.22	Skylar Trading Services Ltd	Salim Aklil	Miroslava Petraniova	20.08.22-19.02.23	625.00
19.10.22	Skylar Trading Services Ltd	Salim Aklil	Anton Angelov & Peter Brsel	20.10.22-19.04.23	1,153.84
19.10.22	Skylar Trading Services Ltd	Salim Aklil	Veronika Balazova	21.10.22-20.04.23	600.00
01.02.23 ¹	Skylar Trading Services Ltd	Salim Aklil	LaKeisha Blanchard	03.02.23-02.06.23	900.00
19.02.23	Skylar Trading Services Ltd	Salim Aklil	Miroslava Petroniova	20.02.23-19.04.23	660.00

18. It is clear from the above that the landlord named in each agreement was a company: Urban Base Properties in relation to the first two tenancies on 19.04.2022 and Skylar Trading Services Limited in relation to all subsequent agreements. Salim Aklil, the Respondent, was the person who signed all of the agreements on the part of the landlord.
19. On its face, therefore, each agreement appears to be a tenancy granted by a company as landlord. Because a company can only act through its officers, employees or agents, it appears that Salim Aklil has signed each tenancy agreement on behalf of the company.
20. The Applicants submitted to us that, despite the appearance of the tenancy agreements, Salim Aklil was the real landlord. They relied on a number of matters about which they gave evidence as follows:

¹ Mistakenly dated 02.08.2023 on the front page

- a) They only dealt with Salim Aklil and he communicated as if he was the landlord
 - b) Salim Aklil signed all of the tenancy agreements
 - c) No physical address is provided for the landlord in any of the tenancy agreements (contrary to section 48 of the Landlord and Tenant Act 1987)
 - d) Salim Aklil was at all material times the sole director of Skylar Trading Services Limited (company number 12750060) and the sole registered “person with significant control”.
 - e) Salim Aklil is not listed as having ever been an officer or person with significant control of Urban Base Properties Limited. The Third Applicant contacted Urban Base Properties Limited (company number 11435047) by telephone and she was told that they had nothing to do with the Property because Salim Aklil was managing it.
21. It is of course an important principle of English Law that a company is a separate entity distinct from its officers and controllers; that the officers, owners and employees of a company are not usually liable for the actions or omissions of the company. This is often referred to as the “corporate veil”.
 22. There are on the other hand important principles of law relating to sham documents and the circumstances in which the reality of a situation is different from that which is described in the words of a document. Our comments about *Street v Mountford* above are an example of the application of that principle.
 23. The authorities are clear that the starting point is the wording of the agreement itself. Each document is clear on its face that the landlord is a company. Although Salim Aklil clearly seems to be the controlling mind behind all of these tenancies, we are not convinced that the evidence relied upon by the Applicants was sufficient to displace that initial presumption or to satisfy the relevant grounds for piercing the corporate veil.
 24. In any event, the offence alleged against this Respondent, Salim Aklil, is that he is a “person managing” or “person having control” of the Property. If he is not such a person, then the application must fail.
 25. Those terms are defined in section 263 of the 2004 Act. “Person having control” is defined as follows:
 - “(1) In this Act “person having control”, in relation to premises, means (unless the context otherwise requires) the

person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) “rack-rent” means a rent which is not less than two-thirds of the full net annual value of the premises.”

26. We are satisfied in this case (with the benefit of our specialist experience and expertise) that the Property was being let at a rack rent under the tenancy agreements referred to above.
27. So the question is whether during the period of this claim Salim Aklil was:
 - 27.1. the person who received the rent of the Property
 - 27.2. the person who received the rent as agent of another person
 - 27.3. the person who received the rent as trustee for another person
28. The Applicants produced evidence of payment of rent from each of the Applicants for the period of their respective tenancies. All of the payments shown in the bundle were made by direct banking transfer by each of the Applicants. They were all made to an account in the name of Skylar Trading Services Limited and then to an account in the name of Skylar Property Services Limited.
29. The last successful payment made by one of the Applicants to Skylar Trading Services Limited was on 3 December 2022. The first payment to Skylar Property Services Limited was made on 20 December 2022. We have noted that the Fourth Applicant tried to pay Skylar Trading Services Limited on 20 December 2022 and the payment was rejected. She made a successful payment to Skylar Property Services Limited on the same day.
30. The effect of this evidence is that Salim Aklil was not the “person” who received the rent of the Property either on his own account or as agent or trustee for any other person.
31. At the hearing, the Fifth Applicant gave evidence that she had in fact made a payment of rent directly to the Respondent, Salim Aklil. She said that on 4 October 2022, she transferred £825 to the account of Skylar Trading Services Limited but the payment was rejected. She contacted the Respondent who told her that the company’s bank account had been frozen and that she should pay her rent directly into his personal bank account. She did not feel comfortable doing that and told him so. He said

that he would accept cash, but she was not prepared to do that either. She said that she would prefer to wait until the company's account was operational again. The following day, she relented and made a transfer of £825 to the Respondent's personal bank account, the details of which he had given her.

32. During this time, the police contacted the Fifth Applicant as someone who had been paying money regularly into the account of Skylar Trading Services Limited. They told her that the company's account was under police investigation.
33. It appears from the evidence of subsequent payments made by all Applicants (including the Fifth Applicant herself) that the bank account of Skylar Trading Services Limited was unfrozen at some point and payments into that account continued up to 3 December 2022 at least.
34. The Applicants relied on that payment into the personal account of the Respondent as evidence that he was a person who received the rent for the purposes of the definition of "person having control" in section 263 of the 2004 Act.
35. We carefully considered that evidence in the light of the statutory provision. And we have come to the conclusion that a one-off payment made as a temporary emergency measure does not mean that the person who received the money in those circumstances is "having control" of the Property for the time when he is holding the money, even if he is the agent of the company or the trustee of the money for the time he is holding it. We have no evidence of when the Skylar Trading Services Limited bank account was unfrozen and when (if at all) Mr Aklil transferred the money into that account.
36. The statutory provision is clearly directed to the person or persons who are habitually in receipt of rents, rather than someone who receives a one-off payment of money in the circumstances described here. If this were not the case, then a friend of the landlord who passes the tenant's cash from the tenant's hand to the landlord's hand on one occasion would be regarded as "having control" of the property for the few seconds or minutes for which he is holding the cash. That clearly cannot be what the statute is intended to mean.
37. We take no account of the fact that the company was under police investigation at the time, because we have no evidence about the outcome of that investigation.
38. We therefore find that the Respondent was not a "person having control" of the Property during the relevant period.

39. “Person managing” is defined by section 263 as follows:

“(3) In this Act “person managing” means, in relation to premises, the person who, being an owner or lessee of the premises—

(a) receives (whether directly or through an agent or trustee) rents or other payments from—

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; ...

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.”

40. The first requirement to satisfy the definition of “person managing” is that the person is the owner or lessee of the premises. We have only one document relating to title in the Property. Office Copy Entries of title number EGL395313 show that the long leasehold proprietor of the Property has been KBR Estates Limited (company number 12149091) since it purchased the leasehold estate for £412,000 in January 2020. The Respondent is not listed at Companies House as an officer or person with significant control of KBR Estates Limited.

41. We have no evidence that the Respondent has any proprietary interest in the Property in his own name. We find therefore that the Respondent does not come within the definition of a “person managing” the Property.

42. Since the Respondent is neither a person having control over the Property nor a person managing the Property within the meaning of section 263 of the 2004 Act, it must follow that he cannot be ordered to make a rent repayment to the Applicants in relation to the Property. In other words, it may be that an offence under section 72 of that Act has been committed, but the Applicants cannot prove beyond reasonable doubt that the named Respondent, Salim Aklil, is the person who has committed it.

43. We considered whether it would be appropriate in this case to exercise our case management powers to substitute or add Respondents under rule 10 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 so as to add any of the companies to these proceedings. We have decided not to do so for the following reasons:

- (a) Skylar Trading Services Limited was dissolved on 19 September 2023 and Skylar Property Services Limited was dissolved on 29 August 2023. A company which is dissolved has ceased to exist. We therefore cannot add as Respondent companies which no longer exist.
 - (b) Urban Base Properties Limited continues to exist, but there is no evidence that it received any rent. The Third Applicant was told on the telephone by someone from that company that its name was being used as a “template” on the tenancy agreements. It is not clear what that means, but it does not amount to evidence that it was in receipt of any rent.
 - (c) In any event, the Applicants’ evidence is that they remained as tenants in the Property until 20 April 2023, so they are still within the period of 12 months if they wish to make an RRO application against any other party.
44. It appears from the evidence given by the Applicants, in their bundle and at the hearing, that they have been the victims of the kind of reprehensible conduct which the Housing Act 2004 (and other legislation) is designed to outlaw and punish and for which it is designed to provide redress. The fact that the Respondent has failed to take any part in these proceedings and is in breach of all the Tribunal’s directions may be a further indication of this. We explained to the Applicants orally at the hearing that our jurisdiction in considering this application is very limited and that they have not met the necessary criteria for a RRO to be made. We also explained that we were unable to give them advice about any other remedies or penalties or routes of redress which may be available to them.

Dated this 24th day of November 2023

JUDGE TIMOTHY COWEN

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).